

Council Communication

Department: Legal Case/Project No. Applicant: Richard Wade, City Attorney	Ordinance No. Resolution No. <u>10-24</u>	Council Action: <u>1/25/2010</u>
SUBJECT/TITLE A Resolution to adopt "The 2010 City Council Rules of Procedure".		
BACKGROUND Rules of procedure for City Council meetings have existed, however, updates have been made to bring the rules more up to date.		
RECOMMENDATION It is my recommendation that the City Council approves this resolution adopting the updated City Council rules of procedure.		

Richard Wade

Department Head Signature

Mayor Signature

THE 2010 CITY COUNCIL RULES OF PROCEDURE

RULE 1. MEETINGS

a. Regular Meetings. At the last regular meeting of each year, the city council shall pass a resolution establishing meeting dates for the following year. These dates shall generally be on the 2nd and 4th Mondays of each month at 7:00 p.m. If these dates fall on a legal holiday or are in conflict with some other event, the meetings shall be held at the council's discretion.

b. Special Meetings. The city council may, by motion made at a prior council meeting, agree to hold a special council meeting on a day other than the 2nd or 4th Monday of the month for consideration of or action upon particular business. The purpose of such special meeting and the nature of the business to be considered or acted upon shall be stated in the motion for special meeting.

Upon the call of order of a special meeting by the mayor, the clerk shall call the roll, and if a quorum is present, the council may officially conduct a meeting. The reading of minutes shall be considered at a subsequent regular meeting and there acted upon. The council may dispense with the consideration of claims and limit the receiving of communications, petitions, or remonstrances to those pertinent to the subject of the meeting or purpose adjournment. Upon approving the agenda for the meeting, the council shall proceed in accordance therewith and the order of business established therein.

Notice of the time and place of special meetings shall be given to the news media in accordance with the requirements of Chapter 21 of the Iowa Code.

c. Called Special Meetings. The mayor, with the concurrence of a majority of the council, or upon the request of a majority of the members of the council, shall call a special meeting of the members of the council and set such reasonable time for such meeting as the circumstances warrant. All calls shall be made by the clerk by giving personal notice of the time of such meeting, or by leaving written notice of the time of such meeting, or by leaving written notice of the time of such meeting at the residence or business office of all members. The clerk shall record such notice of service in the minute book and each member shall subscribe his/her signature to an acknowledgement of such notice if received. Inability of the clerk to give notice to any member as herein required shall not invalidate the call or any action taken at such called meeting.

When a special meeting of the city council shall be called, the purpose or object of the meeting shall be named in the call, and no other business except that specified therein shall be transacted at such special meeting except by unanimous consent. Notice of the time and place of called meetings shall be given to the news media in accordance with the requirements of Chapter 21 of the Iowa Code. When an emergency prevents the giving of such notice, the nature of the emergency shall be stated in the minutes of that meeting.

d. First Regular. At the first regular council meeting in January of each year, the council shall (1) designate an official newspaper, and (2) review the Rules of Procedure of the City Council and make necessary changes if such changes are desired.

e. All Meetings to be Open. All meetings shall be held in the Council Chambers of the Council Bluffs City Hall building, unless there is a published or posted notice designating another location.

Informal meetings of the council where no official action will be taken are called council study sessions. They shall be held at 3:45 p.m. on the day of each regular meeting as established by council resolution.

All meetings shall be open to the public, unless the council by a two-thirds affirmative vote of council members present determines that closed session consideration of some particular topic would be in the public interest. Only those topics identified in Chapter 21 of the Iowa Code, Official Meetings Open to Public, Section 21.5, shall be considered in closed session. The council shall go into closed session only upon motion identifying the general nature of the topic to be considered in closed session. The clerk shall tape record all closed session meetings of the city council and shall preserve such recordings for at least one year, together with the minutes thereof. Tape recordings of closed sessions dealing with pending litigation shall be preserved by the clerk until such litigation has been resolved.

RULE 2. PRESIDING OFFICER

The mayor, or in the absence of the mayor, the mayor pro tem, shall preside. In the absence of both, the council shall appoint a temporary chairperson who shall preside. The presiding officer shall preserve strict order and decorum at all meetings of the council, shall state every question coming before the council, shall announce the decision of the council on all subjects, and shall decide all questions of order, subject, however, to an appeal of the council, in which event a majority vote of the council shall govern and conclusively determine such questions of order, the presiding officer other than a mayor may vote on all questions.

RULE 3. QUORUM

A majority of the council shall constitute a quorum to transact ordinary business. Upon order of the chair, the clerk, or in the clerk's absence, the acting clerk shall call the roll and record the same and preserve it in the minutes of the proceedings. The name of any member entering the meeting after the roll call has been taken shall be recorded in the minutes in the proper chronological order of business. The name of any member leaving the meeting shall be similarly recorded chronologically.

RULE 4. ORDER OF BUSINESS

At the hour appointed for meeting, the members shall be called to order by the mayor, or in the absence of the mayor, the mayor pro tem, or in the absence of both, by the clerk. The clerk shall call the roll, note the absentees and announce whether a quorum is present. Upon the appearance of the quorum, the council shall proceed to business which shall be conducted in the order following below.

1. Call to Order
2. Roll Call
3. Approval of Minutes and Agenda
4. Consent Agenda
5. Public Hearings
6. Ordinances for Council Consideration
7. Resolutions for Council Consideration
8. Mayor's Appointments
9. Receive and File Items
10. Citizen Letters and Requests to be Heard
11. Applications for Permits and Cancellations
12. Other Presentations:
 - a. by council members – new and old business
 - b. by the public – new and old business
13. Adjournment

RULE 5. AGENDA FOR REGULAR MEETING

The clerk shall prepare a written agenda for each regular meeting in the order established in Rule 4, Order of Business.

Applications for permits and licenses, or the renewal thereof, shall be filed with the clerk ten (10) days in advance of the council meeting at which said applications or renewals are to be acted upon.

All other matters to be included in the agenda for submission to the council shall be filed with the clerk not later than 5:00 p.m. on the Friday ten (10) days prior to the council meeting at which consideration is desired. In unusual circumstances, an item may be accepted after the deadline upon the approval of the mayor.

Except for minor matters, no item of business shall be considered for action by the council which does not appear on the agenda for the meeting, except for ministerial matters, or matters of urgent business which requires immediate action and is so determined by a majority of the council may be considered by the council whether or not there is a full membership present. The council will hear all reasonable citizen petitions, requests, and statements; however, such items which do not specifically appear on the agenda may be deferred to a future meeting for careful consideration and study if the council action, other than filing, is required or requested.

The mayor and each council member shall be provided with a copy of the agenda, minutes of the previous meeting, and any other reports and information pertinent to the agenda at least 48 hours prior to each regular meeting.

No matter may be submitted for council action by an administrative official, department head, or employee unless it has first been presented to the mayor for inclusion on the agenda.

RULE 6. MINUTES

a. The city clerk shall keep a record of all council meetings, including study sessions.

b. Unless a reading of the minutes of a council meeting is requested by a member of the council, such minutes may be approved without reading if each member has previously been provided a copy.

c. The council may, by motion carried by a majority vote, amend the minutes. Such amending motion shall become a part of the minutes of the subsequent meeting.

RULE 7. RULES OF ORDER

a. Robert's Rules of Order, newly revised, 2000, shall be accepted as an authority on parliamentary practice on matters not specifically covered and, in case of a conflict, these rules shall govern.

b. Every member desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine himself/herself to the question under debate, avoiding all personalities and indecorous language.

c. A member, once recognized, shall not be interrupted when speaking, unless it is to call him/her to order or to vote on a motion to close a debate, or as herein otherwise provided. If a member, while speaking, is called to order, he/she shall cease speaking until the question of order is determined and, if in order, he/she shall be permitted to proceed.

d. A motion to reconsider any action taken by the council must be made at the meeting at which such action was taken or at the next regular meeting of the council, and must be made by a member of the council who voted with the prevailing side or who was not present at the time of the vote, provided that if such motion to reconsider is passed, then the parties entitled to notice on the original action shall be notified, and the reconsideration of the action shall be taken at the original meeting or regular meeting following passage of the motion to reconsider.

e. A council member may request through the presiding officer the privilege of having an abstract of his/her statement on any subject under consideration by the council, or the reason for his/her dissent from or support of any action of the council, entered in the minutes. Such a request may be made at the time of said action or consideration or at the time of the adoption of said minutes. Unless the council, by motion, objects such statements shall be entered in the minutes.

f. Cell Phones. Any member of the general public attending a city council meeting shall turn off or switch to silent mode all cell phones and/or other electronic communication devices prior to the start of any council meeting. No member of the city council, the mayor, or city staff will utilize such devices while attending a city council meeting. An exception to this general rule is that city public safety personnel may utilize such devices to the extent necessary to perform their duties.

RULE 8. VOTING

When a roll call vote is taken, a council member must use one of three options when voting. Those options are:

1. a vote in favor of what is being proposed;
2. a vote against what is being proposed; or
3. abstention.

If a council member determines that he or she must abstain on an issue, that council member shall notify the rest of the council of said determination, either in writing or in an open council meeting. Said notice shall state in a general nature the reason for the need to abstain. So as to avoid any appearance of impropriety, once a council member has determined that he or she must abstain on an issue, said council member shall refrain from any further public comment on the issue at the council meeting.

RULE 9. PUBLIC PARTICIPATION – MAINTAINING DECORUM AND ORDER

Any person desiring to address the Council shall first secure the permission of the presiding officer.

Each person addressing the Council shall give his/her name and address in an audible tone for the record and, unless further time is granted by the presiding officer, shall limit his/her address to five (5) minutes, except at a public hearing when the limit shall be ten (10) minutes. All remarks should be addressed to the council as a body, and not to any particular council member, any staff member, or any other member of the public. No person other than the council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer. No question shall be asked of a council member or of any member of the administrative staff except through the presiding officer.

The presiding officer may, with the acquiescence of a majority of the council, require any member of the public to yield the floor, to discontinue his/her remarks, or to cease given activity, if in the judgment of the council that person's actions or remarks may unduly disrupt the decorum of the proceedings, or create the risk of public disturbance. If any such person refuses to obey the presiding officer's directive, the presiding officer may order the person to leave the council meeting.

At study sessions, staff and members or the public may only take part in the discussion at the request of the mayor or council, and their input shall be limited to direct responses to questions of a council member or mayor.

RULE 10. ORDINANCES, RESOLUTIONS, MOTIONS AND REPORTS

a. Ordinances, resolutions and other matters or subjects requiring action by the council shall be introduced by the city clerk, a member of the council, mayor, or city attorney.

b. Every ordinance and resolution shall be presented in writing. Upon the vote on ordinances, resolutions and motions, the ayes and nays shall be recorded. Upon the request of any member of the council, the vote shall be by roll call of all members of the council as provided under Rule 2 "Presiding Officer". A majority vote of the total number of members of the council shall be required for the passage of all ordinances, motions, resolutions, cancellations of permits and licenses.

c. Readings and Amendment of Ordinances. All proposed ordinances shall have a separate consideration on three different days unless there is a motion to dispense with the second and/or third consideration and a three-fourths majority of the council shall so approve. Actual reading of the ordinance shall not be required if written copies are available or unless two or more members request it. An ordinance may be amended after first or second consideration and before voting thereon. After voting for placing the ordinance on third and final consideration or for dispensing with the second and/or third consideration, the ordinance may not be amended, but shall be voted on for final passage unless tabled, postponed, or referred to a committee. Any proposed ordinance not voted on for final passage must be returned to a second consideration status if it is to be amended. However, if it is determined that an amendment to an ordinance will lessen its impact on the citizen, an ordinance may be so amended and passed into law.

d. All ordinances and resolutions shall be filed with the city clerk and made a part of the minutes. Reports, petitions, and correspondence shall be filed with the city clerk and made a part of the minutes by reference.

RULE 11. CONDUCT OF CITY EMPLOYEES

a. The mayor may take part in the discussions of the city council and may recommend to the council such measures as he/she may deem necessary for the welfare of the people and efficient administration of the affairs of the city. He/She shall have all the rights, powers, and duties prescribed by Iowa statutes in regard thereto. It is recognized that the city council is the policy-making body for the city, and the mayor shall confine his/her discussions at council meetings to statements of fact, recommendations based on his/her knowledge and experience, and explanations of the reasons for the same, and any matters pertaining to administration.

b. The city attorney may not take part in the discussions of the city council except to answer questions directed to him/her, comment on matters involving legal powers or procedures of the city, and to present factual material to the council.

c. The above regulations of city employees shall not be construed to limit the appearance before the city council of any city employee when such appearance is made as a taxpayer or member of the public, for or against some particular issue under discussion by the council when such employee has an interest in the outcome thereof. If an employee's comments are directed to conditions of employment or administrative policies and procedures, the council may direct the employee to pursue the matter through normal administrative channels.

RULE 12. WAIVER

By four-fifths consent of all council members, these rules may be waived. Amendments to Rules of Procedure may be made by four-fifths of the members of the council.

RULE 13. ADJOURNMENT

A motion to adjourn shall always be in order, shall be considered only after a second, and shall be decided by majority vote.

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 10-24

A RESOLUTION TO ADOPT THE 2010 CITY COUNCIL RULES OF PROCEDURE.

WHEREAS, after study and consideration of the City's City Council rules of procedure, it is deemed to be in the best interest of the City of Council Bluffs to adopt the 2010 City Council Rules of Procedure.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

The 2010 City Council Rules of Procedure are hereby adopted.

ADOPTED
AND
APPROVED January 25, 2010

Thomas P. Hanafan, Mayor

ATTEST: _____
Marcia L. Worden, City Clerk

Council Communication

Department: Legal	Ordinance No.	First Reading
Case/Project No.	Resolution No. <u>10-25</u>	Second Reading
Applicant: Richard Wade, City Attorney		Third Reading
SUBJECT/TITLE		
A Resolution to designate "The Daily Nonpareil" as the official newspaper for the City of Council Bluffs.		
BACKGROUND		
It is necessary to designate an official newspaper for the City of Council Bluffs.		
RECOMMENDATION		
It is my recommendation that the City Council approves this resolution nominating "The Daily Nonpareil" as the City's official newspaper.		

Richard Wade

Department Head Signature

Mayor Signature

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 10-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS
DESIGNATING THE OFFICIAL NEWSPAPER FOR THE CITY OF COUNCIL BLUFFS.

WHEREAS, be it resolved by the City Council of the City of Council Bluffs to designate "The Daily Nonpareil" as its official newspaper.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

The City Council of the City of Council Bluffs hereby adopts "The Daily Nonpareil" as its official newspaper.

ADOPTED
AND
APPROVED January 25, 2010

Thomas P. Hanafan, Mayor

ATTEST: _____
Marcia L. Worden, City Clerk

Council Communication
January 25, 2009 City Council Meeting

Department: Community Development	Ordinance No.: N/A Resolution No.: <u>10-26</u>	First Reading: N/A Second Reading: N/A Third Reading: N/A Public Hearing: N/A
Case/Project No.: N/A		

Subject/Title

Acquire 1028 Creek Top

Location

Mid-City Corridor Project Area

Background/Discussion

Background

City Council adopted a Neighborhood Revitalization Strategy Area (NRSA) on August 10, 1998 by Resolution Number 98-201. One of the recommendations of the NRSA was the implementation of the Mid-City Corridor Project, which involves the acquisition of vacant and blighted properties in the City's railroad corridors for eventual redevelopment. Redevelopment actions could include the extension of the City's trail system, reconstruction of Indian Creek, railroad consolidation and open space. The City has received Iowa West Funds and CDBG funds have been allocated for the Mid-City Corridor Project.

Discussion

The Community Development Department continues to acquire parcels of land for the Mid-City Corridor Project. On and off over the past several years, the Community Development Department has been trying to negotiate with John M. Jr. and Patricia Hiffernan who own a vacant building at 1028 Creek Top. The City already owns property to the north, south and east of this structure. After past failed attempts at negotiations with the owner, the Community Development Department received approval on August 24, 2009 by Resolution Number 09-256 from City Council to initiate condemnation proceedings if the City and the property owner are unable to agree on a reasonable price for the property.

On January 6, 2010 Mr. and Mrs. Hiffernan agreed to an acquisition price of \$158,500 for their property. A real estate contract for the acquisition of the property is being prepared and resolution authorizing the Mayor to execute the real estate contract is attached. CDBG and IWF funds will be used to cover the cost of acquisition.

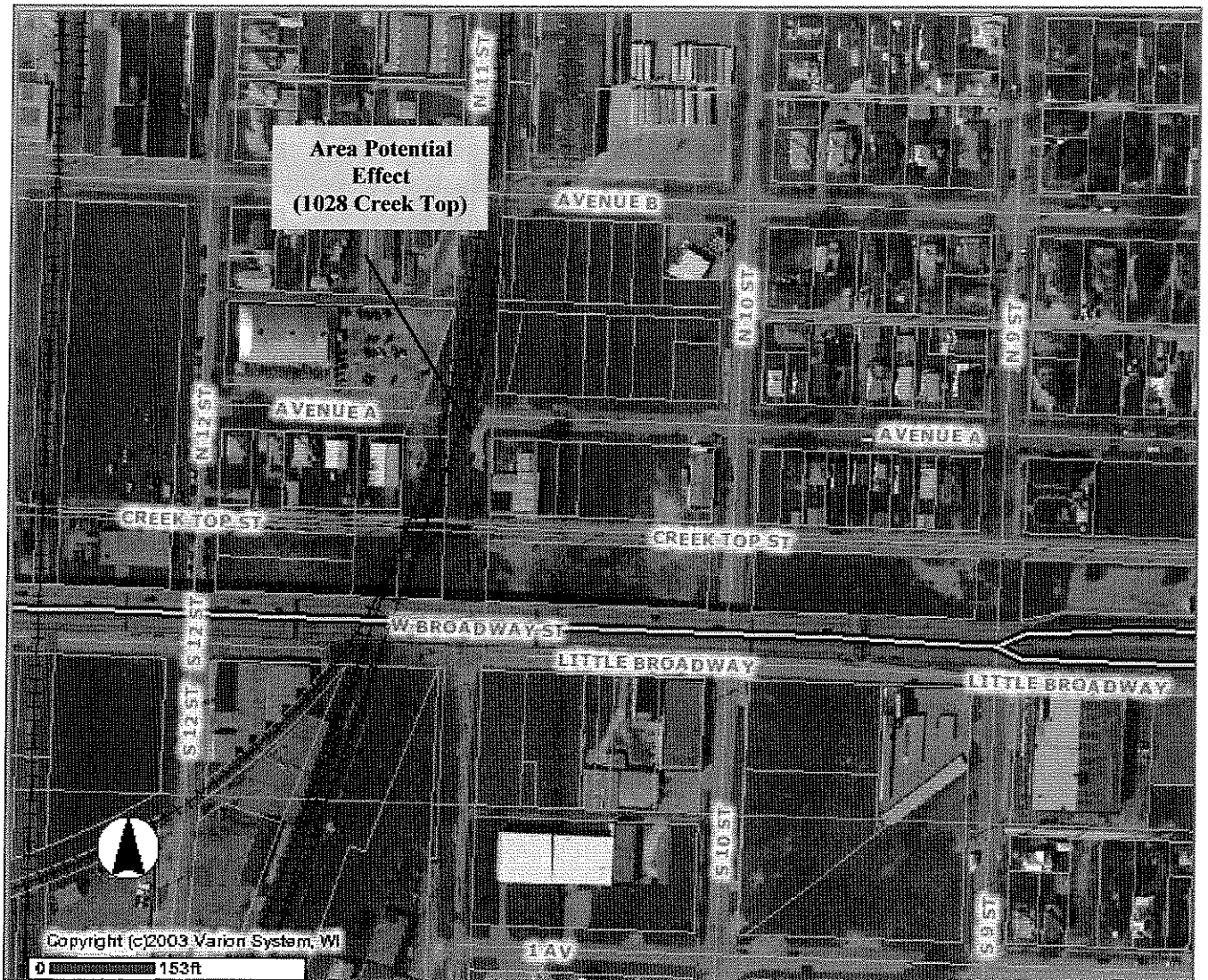
Staff Recommendation

The Community Development Department recommends City Council adopt a resolution authorizing the Mayor to execute the real estate contract to acquire property located 1028 Creek Top as part of the Mid-City Corridor Project.

Attachments

Property Location Map

Area of Potential Effect
1028 CREEK TOP



RESOLUTION NO. 10-26

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE REAL ESTATE CONTRACT TO ACQUIRE PROPERTY LOCATED AT 1028 CREEK TOP AS PART OF THE MID-CITY CORRIDOR PROJECT.

WHEREAS, The City wishes to acquire property owned by John M. Jr. and Patricia Hiffeman located at 1028 Creek Top for the Mid-City Corridor Project; and

WHEREAS the City adopted a Neighborhood Revitalization Strategy Area (NSA) on August 10, 1998 by Resolution Number 98-201 recommending the Mid-City Corridor Project; and

WHEREAS the Mid-City Corridor Project will involve the acquisition of vacant and blighted properties in the City's railroad corridors for eventual redevelopment; and

WHEREAS CDBG and Iowa West Grant funds will be utilized for the Mid-City Corridor Project; and

WHEREAS, a real estate contract has been prepared for the acquisition of the property located at 1028 Creek Top for \$158,500.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA:

That the Mayor is hereby authorized and directed to execute the real estate contract to acquire the property located at 1028 Creek Top as part of the Mid-City Corridor Project.

ADOPTED
AND
APPROVED:

January 25, 2010

Thomas P. Hanafan Mayor

ATTEST:

Marcia L. Worden, City Clerk

Council Communication

Department: Parks, Recreation and Public Property Case/Project No. Applicant: Larry N. Foster	Ordinance No. _____ Resolution No. <u>10-27</u>	Date: <u>January 25, 2010</u>
Subject/Title		
For City Council consideration is a resolution authorizing the Mayor to sign an Iowa West Foundation Grant Award Letter of Agreement which provides financial assistance from the Foundation for Phase I of the River's Edge Park project and indicating the City financial support of this project.		
Background/Discussion		
<p>On February 9, 2009, the City Council authorized a Resolution retaining a design team, headed by Sasaki, to design a signature riverfront park on the banks of the Missouri River and at the foot of the new Bob Kerrey Pedestrian Bridge. The action represented the City's most recent effort to pursue its long held ambition to develop a riverfront park for residents and visitors.</p> <p>Over the past year, the design of this park has advanced and the design team has refined the previous Master Plan, initiated required permitting activities, drafted preliminary construction drawings, estimated project costs and authored a preliminary schedule for construction.</p> <p>Although the project has been directed by the City's Department of Parks, Recreation and Public Property, considerable input has been provided by the Public Works, Law, Finance and Community Development Departments. Additionally Iowa West Foundation staff have also participated not only in the selection of Sasaki, but also in discussions regarding the park's elements, making this project a true Iowa West Foundation/City of Council Bluffs partnership.</p> <p>In furtherance of this joint effort, the Department of Parks, Recreation and Public Property submitted a grant request to the Iowa West Foundation requesting support for the construction of the River's Edge Park. On December 22, 2009, the Foundation notified the Mayor that a grant award, for Phase 1, in the amount of \$5,450,000.00, had been awarded.</p> <p>The Grant Award Letter of Agreement specifies the City will develop Phase 1 in accordance with the City's current River's Edge Park plan and that the City agrees to maintain the park improvements. Additionally, their Agreement details a phased reimbursement for their grant and requires that Phase 1 of the park include those elements out-lined in the City's proposal for Phase 1. These improvements include; preliminary program review/design, final design/bid documents and permitting, tree removals, wetland mitigation, construction of the roadway and adjacent trail from Harrah's to the Great Lawn, all elements of the Great Lawn, planting of the tree groves and their walks and associate areas/amenities, the road/plaza and the river's edge improvements.</p> <p>The Grant Award Letter also requests a financial commitment from the City. In fact, this level of City financial contribution had previously been discussed with the Finance Director, Mayor and Council Members and is, already allocated in the City's Capital Improvement Program 2010-2011 Project PR-11-</p>		

07 – Playland Park Riverfront, and 2010-2011 Project PW-11-21 Riverfront Road.

The purpose of this Resolution is to authorize the Mayor to sign the Agreement with Iowa West Foundation providing funding in the amount of \$5,450,000.00 for Phase 1 of the River's Edge Park project.

Recommendation

I recommend the City Council adopt the resolution to authorize the Mayor to sign the Iowa West Foundation Grant Award Letter of Agreement.

Larry N. Foster

Thomas P. Hanafan

RESOLUTION NO. 10-27

RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO SIGN THE
IOWA WEST FOUNDATION GRANT AWARD LETTER OF AGREEMENT.

- WHEREAS, on February 9, 2009, the City Council passed a resolution retaining Sasaki to design a signature riverfront park on the banks of the Missouri River and at the foot of the Bob Kerrey Pedestrian Bridge; and
- WHEREAS, over the past year the design of this park has advanced to include a refined Master Plan, the initiation of permitting activities, the drafting of preliminary construction drawings, estimating of project costs and the completion of a preliminary construction schedule; and
- WHEREAS, the City Council and the Parks, Recreation and Public Property Commission supports the River's Edge Park plan and an effort to develop funding partnerships to construct the park; and
- WHEREAS, the recent efforts to advance the River's Edge Park's design and design related elements represents a joint effort of many City Departments and the various staff members of the Iowa West Foundation making this project a true Iowa West Foundation/City of Council Bluffs partnership; and
- WHEREAS, to further this partnership the Department of Parks, Recreation and Public Property filed a grant request with the Iowa West Foundation seeking financial support for the River's Edge Park project; and
- WHEREAS, on December 22, 2009, the Mayor was notified the Iowa West Foundation had Awarded the City a grant in the amount of \$5,450,000.00 for Phase 1 of the River's Edge Park; and
- WHEREAS, the City Council agrees to develop Phase 1 of the City's River's Edge Park plan developed by Sasaki, as proposed in the City's phasing plan, dated December 4, 2009; and
- WHEREAS, the City Council agrees the City will fund the maintenance of the park improvements; and
- WHEREAS, the City Council, in Fiscal Year 2010-2011, has approved for this project, funding within the City's Capital Improvement Program as specified in the Playland Park Riverfront Project PR-11-07 and the Riverfront Road Project PW-11-21.

NOW, THEREFORE BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City Council authorize the Mayor to sign the Iowa West Foundation Grant Award Letter of Agreement which provides financial assistance from the Foundation for Phase 1 of the River's Edge Park Project.

ADOPTED
AND
APPROVED

January 25, 2010

Thomas P. Hanafan

Mayor

Attest:

Marcia L. Worden

City Clerk

Council Communication

Department: Parks, Recreation and Public Property Case/Project No. Applicant: Larry N. Foster	Ordinance No. _____ Resolution No. <u>10-28</u>	Date: <u>January 25, 2010</u>
Subject/Title		
<p>For City Council consideration is a resolution authorizing the Mayor to enter into a Management and Title Transfer Agreement with the Iowa Department of Natural Resources (IDNR) which transfers the title of approximately 85 acres of state-owned real property to the City of Council Bluffs for the city's use as a park.</p>		
Background/Discussion		
<p>Over the past years, the City, through various plans and Council actions, has expressed its intent to develop a signature public park on the banks of the Missouri River and the foot of the Bob Kerrey Pedestrian Bridge.</p> <p>Although City plans illustrate several park areas within the Playland Park development, the largest area is comprised of property located between the river's edge and the levy. This property is owned by the IDNR, however, by prior agreement this property is managed and maintained by the City of Council Bluffs.</p> <p>Over the past year, efforts to develop a park in this area advanced and through a joint staff meeting between the Department of Parks and Recreation (PR&PP) and the IDNR, it was determined to be mutually beneficial for the City to own this property.</p> <p>On August 13, 2009, a formal request for the State to transfer this property was made to the Natural Resource Commission. The Commission's initial response was negative, stating a reluctance to dispose of state park property and the need to receive compensation.</p> <p>At about the same time, the City was notified that the IDNR had acquired funding to begin the construction on a new campground on Lake Manawa. Since the Parks and Recreation Department maintained this property under a Management Agreement, IDNR requested the City agree to the early termination of this agreement to allow campground construction to begin.</p> <p>Following preliminary discussion with the Mayor and City Council Members, the Parks and Recreation Department proposed a compromise to the Natural Resource Commission. Under this proposal the City would agree to terminate its management lease on the Lake Manawa property and transfer a small piece of property adjacent to state owned property at Lake Manawa to the IDNR as compensation for the State's transfer of the 88 acres of riverfront property.</p> <p>The Commission agreed to the exchange of property and over the next three months Commission members, City staff and their consultants worked together to incorporate into the park's plan a number of environmental concepts requested by the IDNR and determined to be mutually acceptable to the City.</p>		

On October 8, 2009, the Commission authorized the IDNR Director to sign the final Management and Title Transfer Agreement.

Passage of this resolution authorizes the Mayor to sign the associated Management and Title Transfer Agreement which provides for the following:

- Transfer of approximately 85 acres of State property to the City for its use as a public park
- Transfer of a City owned lot 81 of Lakewood Villa to the State
- Termination of the City's management agreement for the north portion of Lake Manawa State Park
- Inclusion of various design elements in the City's construction of the River's Edge Park. These design approaches include treatment of storm water runoff, utilizing dark sky compliant lighting sources, planting of replacement trees, standards for roads/parking areas and other elements identified in the Agreement.
- Development of the River's Edge Park in substantial compliance with the City's park master plan and other exhibits incorporated into the Agreement.
- Recognition that development of River's Edge park shall be subject to available funding
- Establishment of the basis for amendments to and enforcement of the Agreement

Recommendation

I recommend the adoption of this resolution authorizing the Mayor to enter into a Management and Title Transfer Agreement with the Iowa Department of Natural Resources which transfers the title of approximately 85 acres of state-owned real property to the City of Council Bluffs for the city's use as a park.

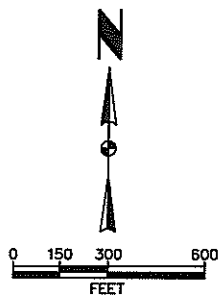
Larry N. Foster

Thomas P. Hanafan

fb:

hgm: 11149

\\Srv13\data\Survey\Drafting\11149_Sasaki-HGM_topo\dwg\11149_LEGAL_EXHIBIT.dwg



MISSOURI RIVER

GOVT LOT 3
AND ACCRETIONS

TRUE POINT
OF BEGINNING

GOVT LOT 2
AND ACCRETIONS

AVENUE "G"

AVENUE "F"

AVENUE "E"

AVENUE "D"

AVENUE "C"

AVENUE "B"

PLAYLAND PARK

SW CORNER
SEC. 28-75-44

C.B. MISSOURI
RIVER LEVEE

WEST BROADWAY STREET

GOVT LOT 1
AND ACCRETIONS
COUNCIL BLUFFS
APARTMENTS

DODGE RIVERSIDE
GOLF CLUB

GOVT LOT 2
AND ACCRETIONS

project no. 11149

date OCT.'09

sheet 1 OF 1

project RIVER DRIVE

client SASAKI INC.
64 PLEASANT ST., WATERTOWN, MA 02472
sheet EXHIBIT

DEF
drawn
DEF
designed
MGS
approved

hgm
ASSOCIATES INC.
ENGINEERING ARCHITECTURE SURVEYING
council bluffs andha



Circuit Trail

Bob Kenney
Pedestrian Bridge

Stream Restoration

Park Drive

30 Scale
Enlargement Plan

Sand Area

Great Lawn

Natural Beach
Restoration
Pavilion

Sloped Accessible
Walk

River Terraces

Wing Dike Wharf

Middle Parking Lot
(140 Spaces)

Stormwater Outfall
(By Others)

South Parking Lot
(148 Spaces)

Interstate 480

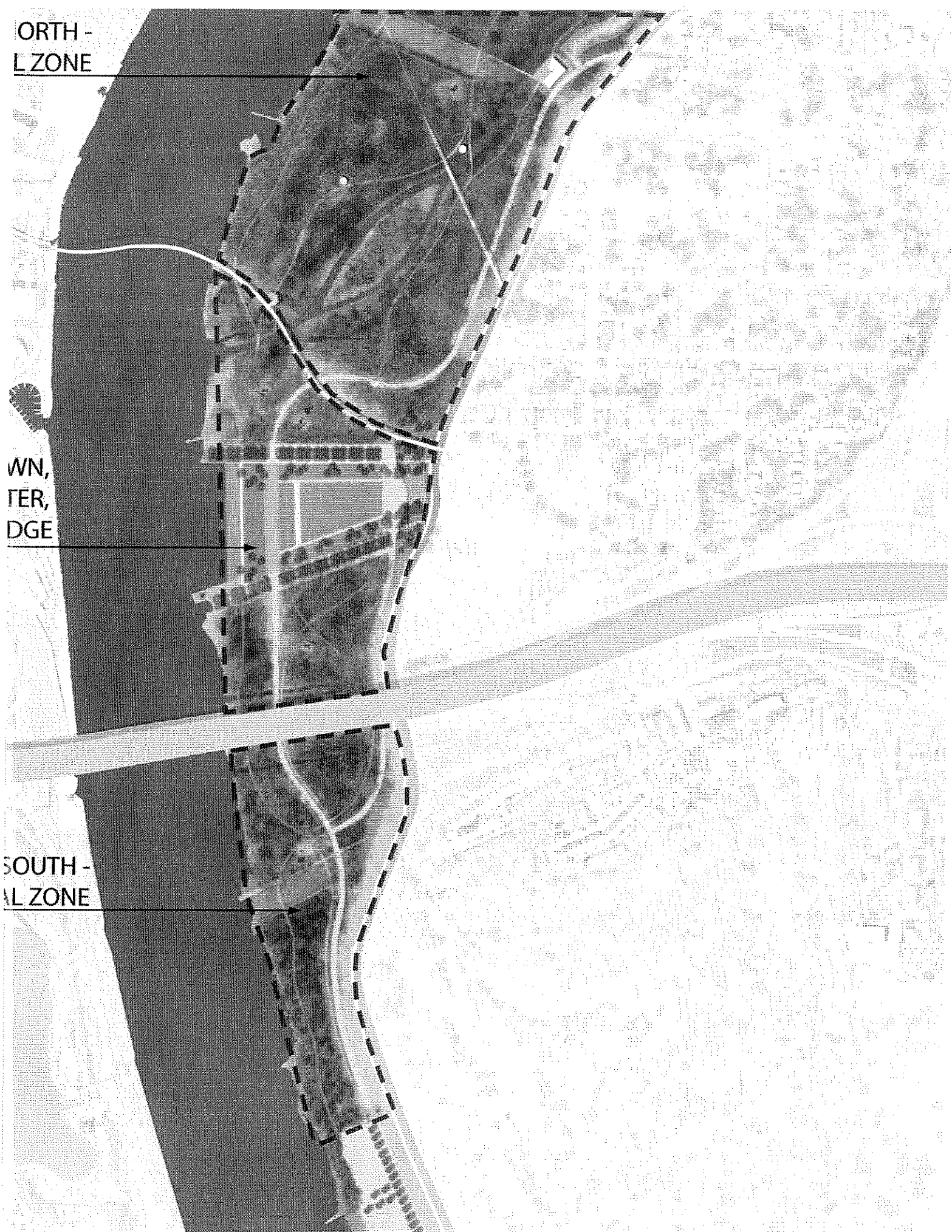
Shared Use
Circuit Trail

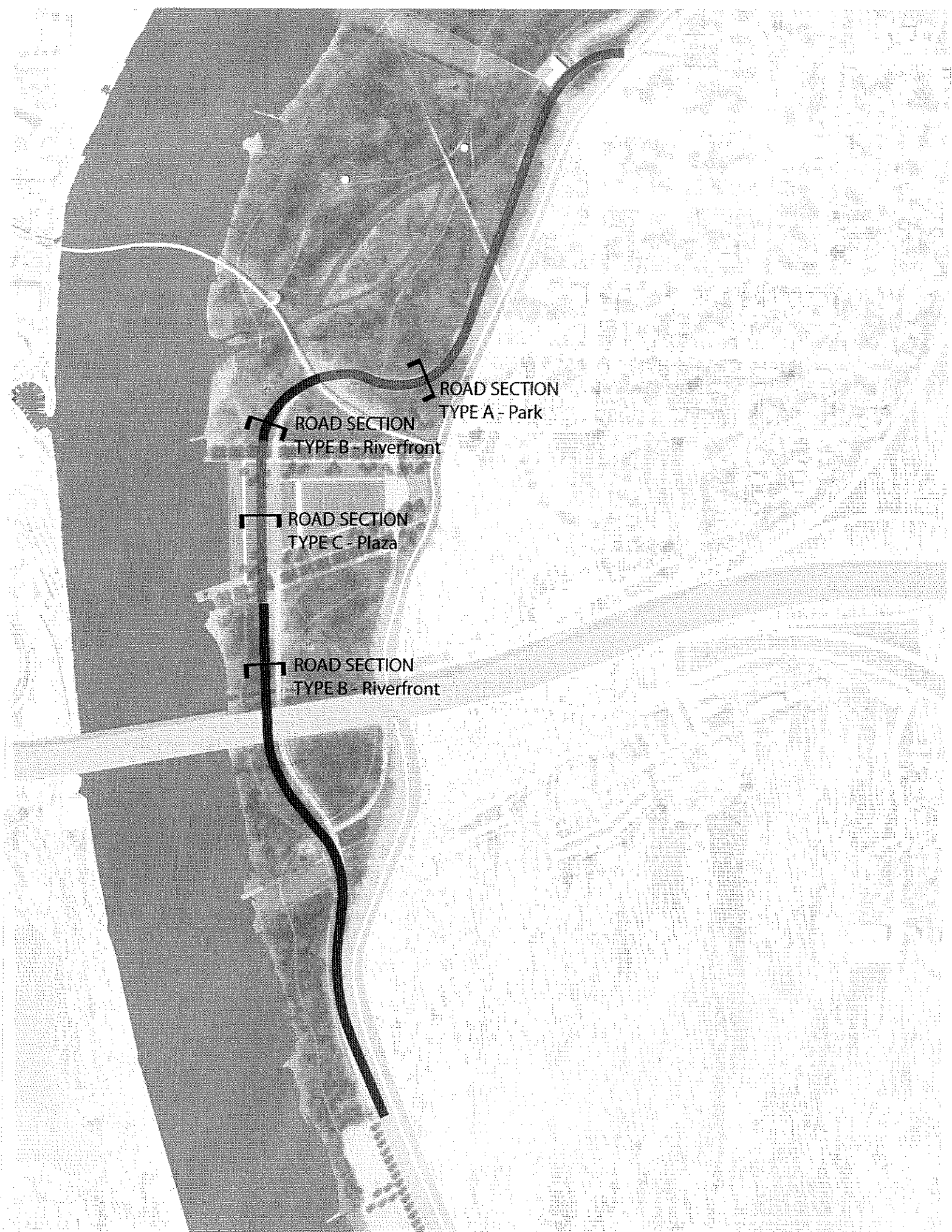
Sloped Access
Walk

ORTH -
L ZONE

WN,
TER,
DGE

SOUTH -
AL ZONE





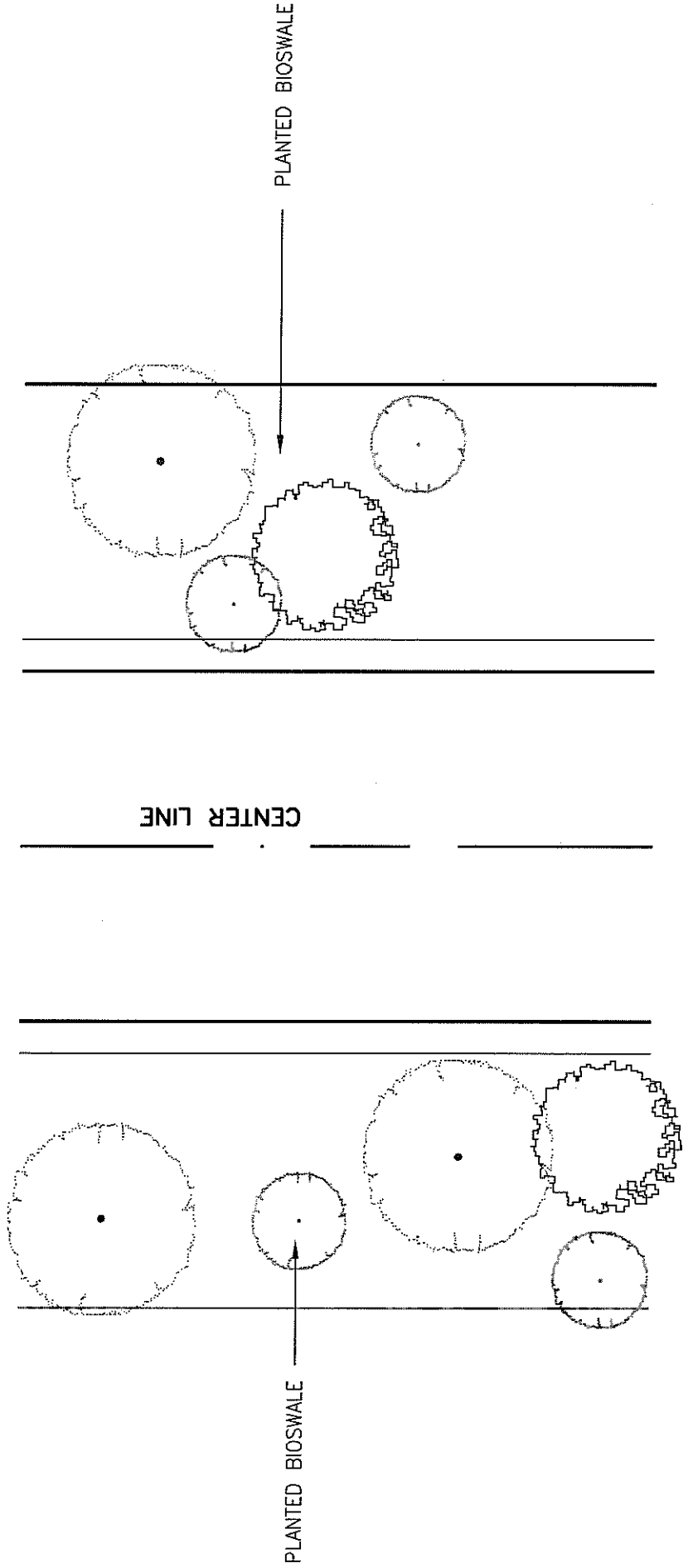
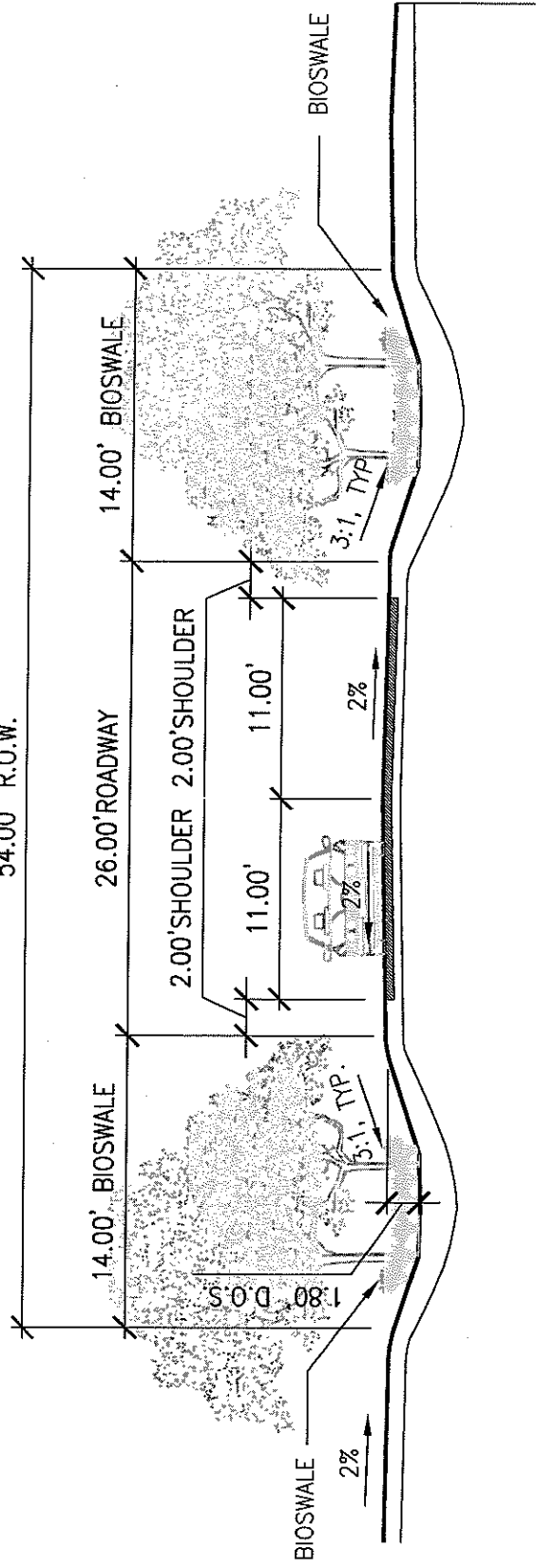
ROAD SECTION
TYPE A - Park

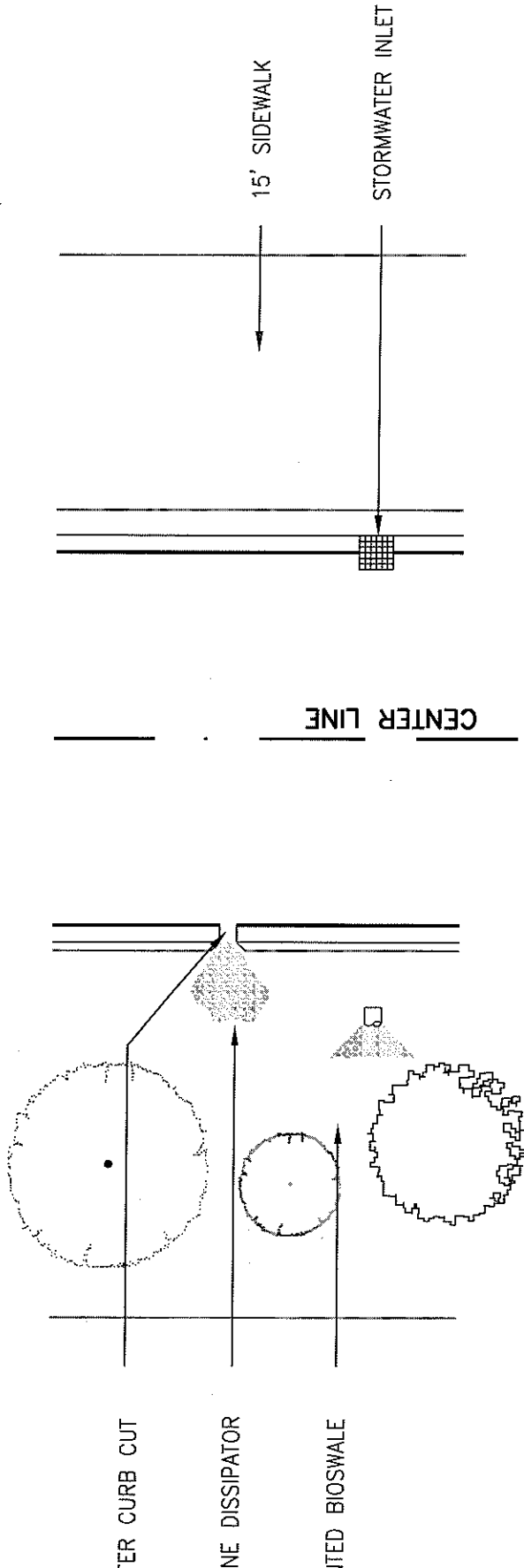
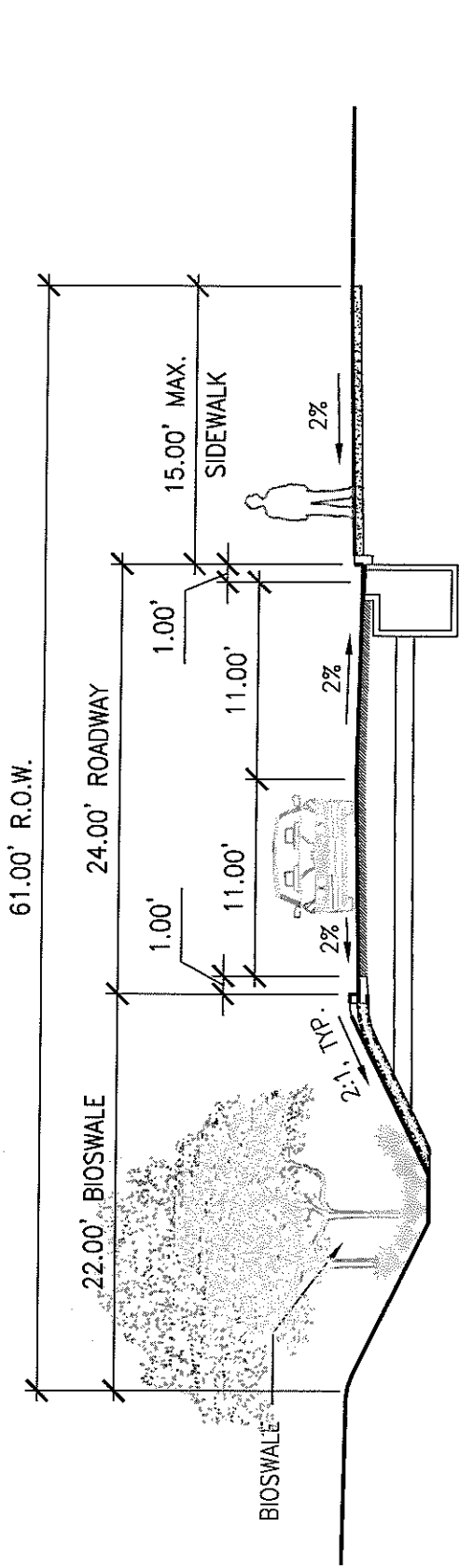
ROAD SECTION
TYPE B - Riverfront

ROAD SECTION
TYPE C - Plaza

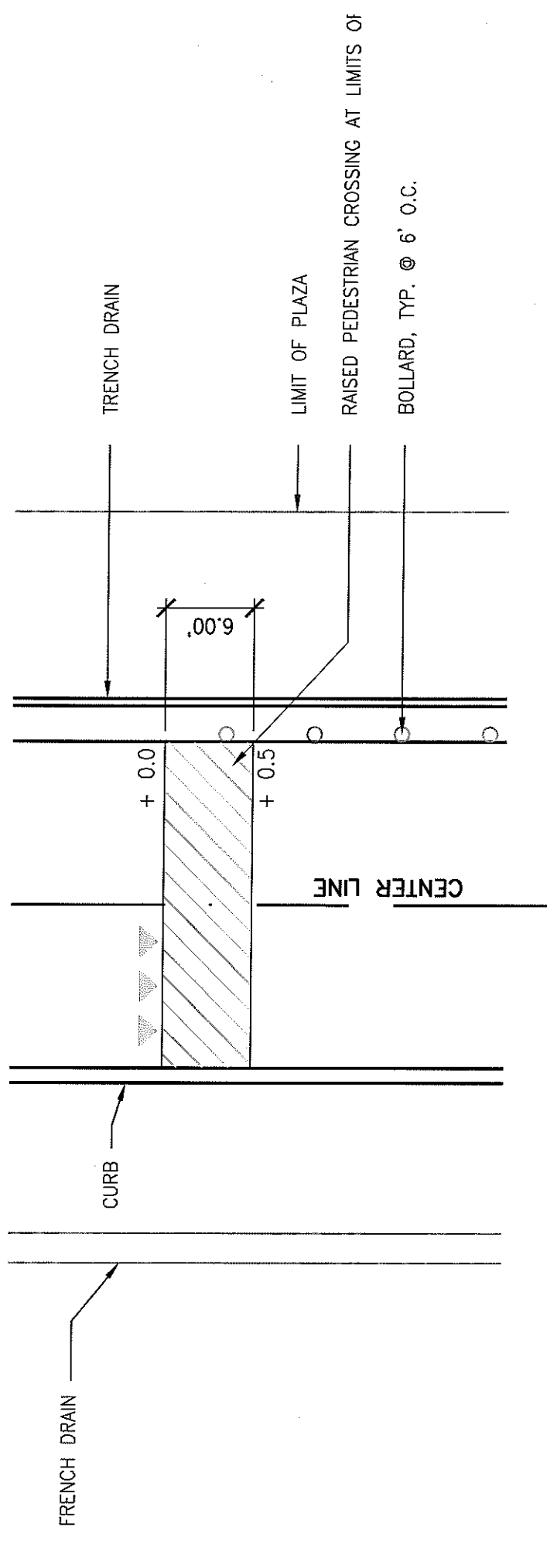
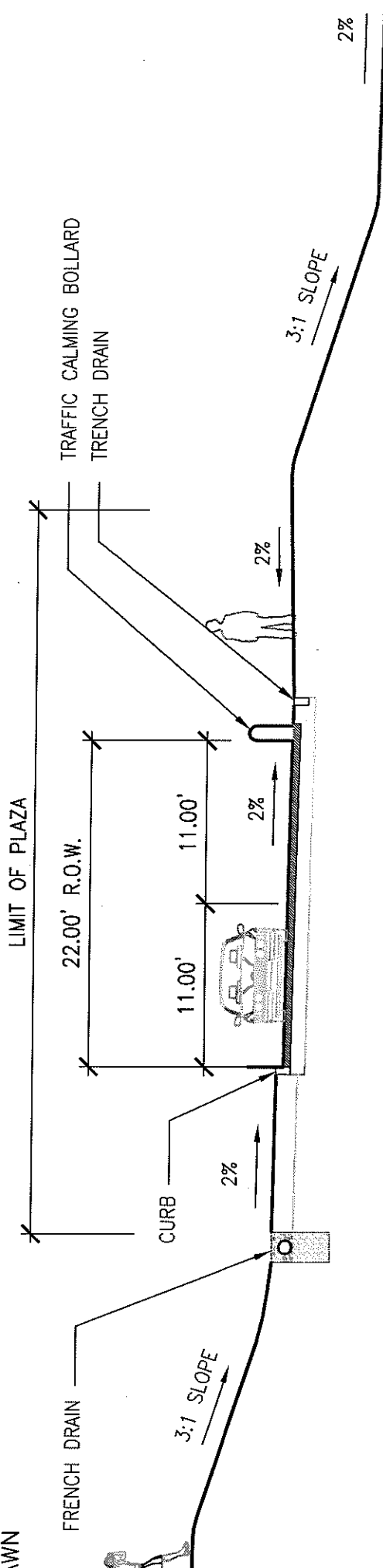
ROAD SECTION
TYPE B - Riverfront

54.00' R.O.W.





LAWN

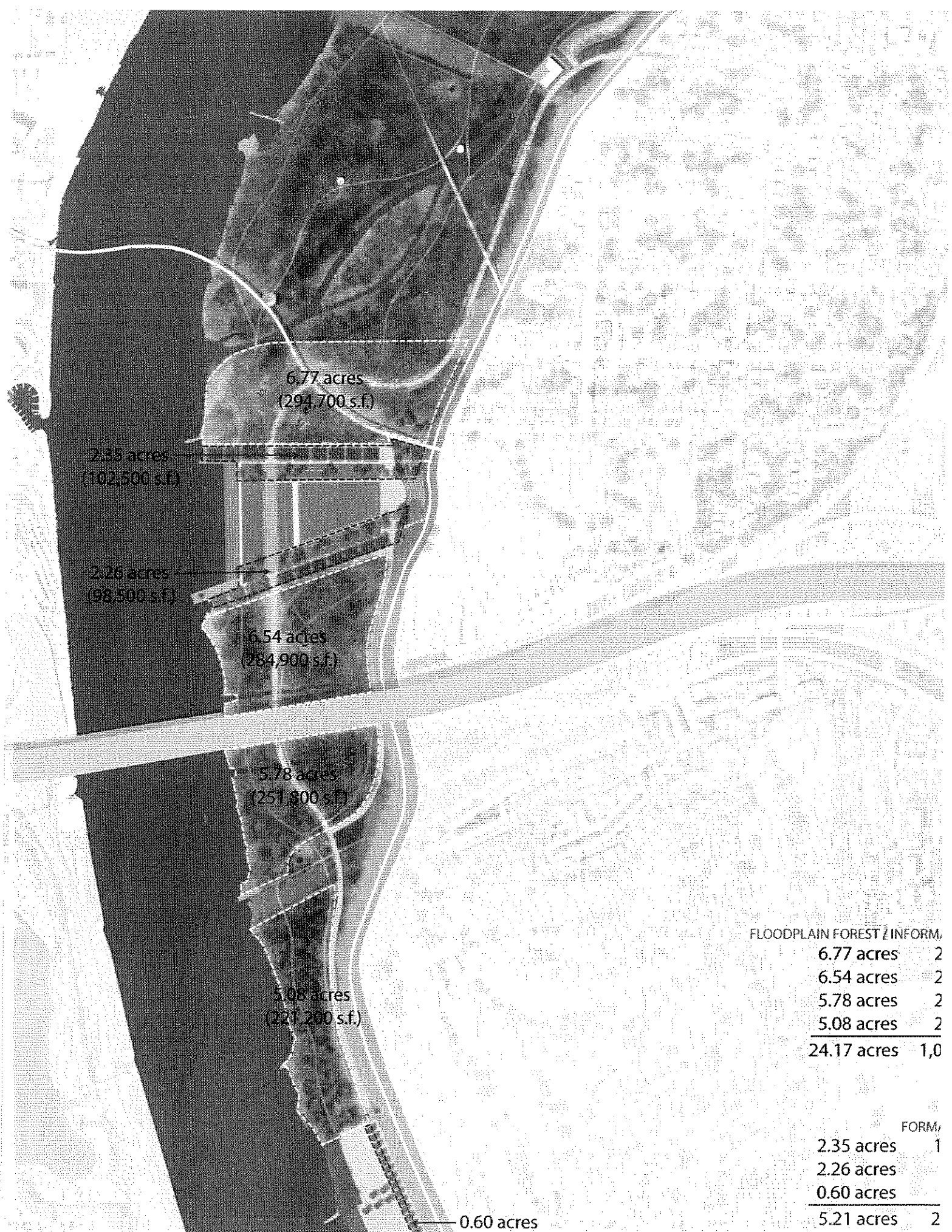


ited
0 s.f.)

ited
0 s.f.)

irrigated
s.f.)

MAXIMUM TURF AREA =		
9.01 acres	392,300 s.	
2.80 acres	121,900 s.	
1.14 acres	49,600 s.	
12.95 acres	563,800 s.	



6.77 acres
(294,700 s.f.)

2.35 acres
(102,500 s.f.)

2.26 acres
(98,500 s.f.)

6.54 acres
(284,900 s.f.)

5.78 acres
(251,800 s.f.)

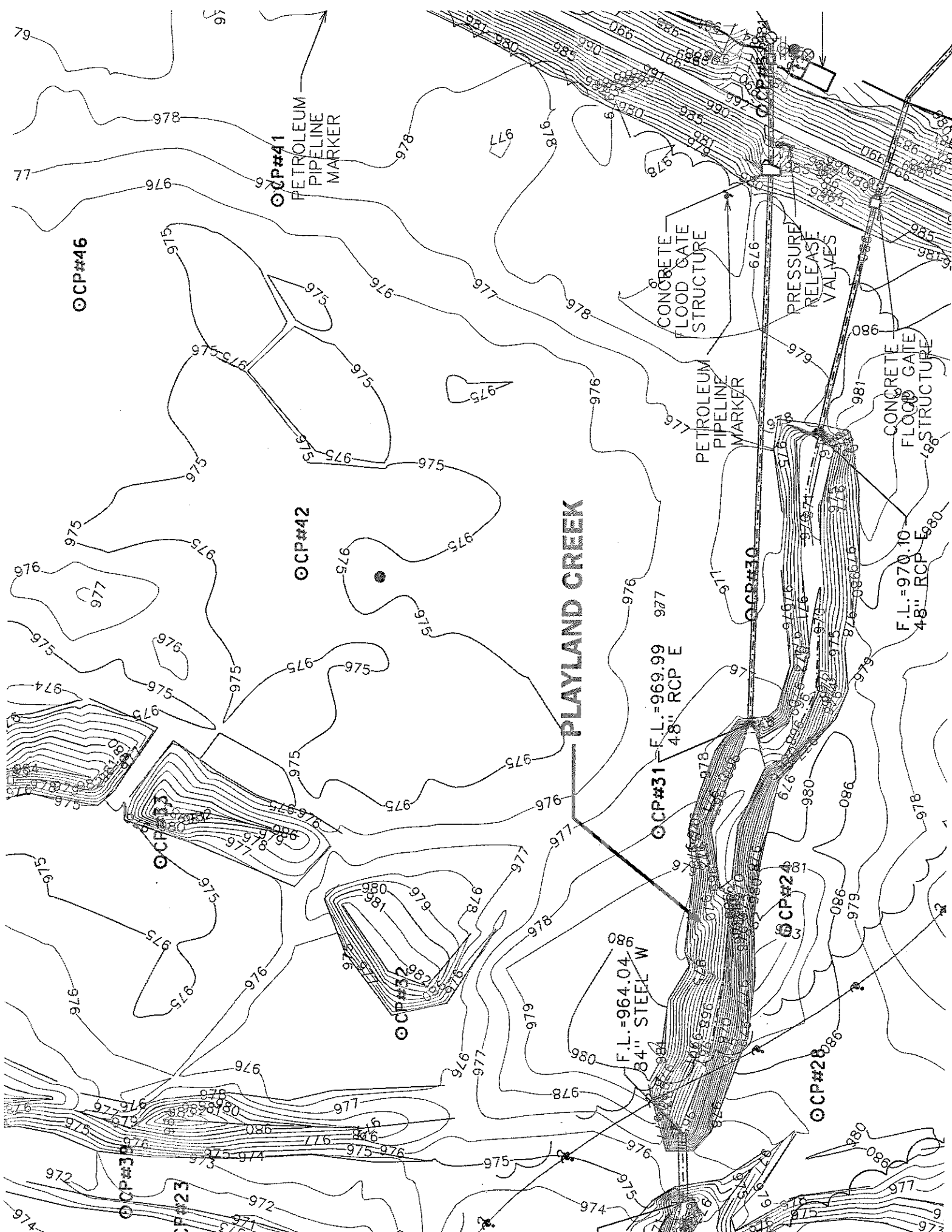
5.08 acres
(221,200 s.f.)

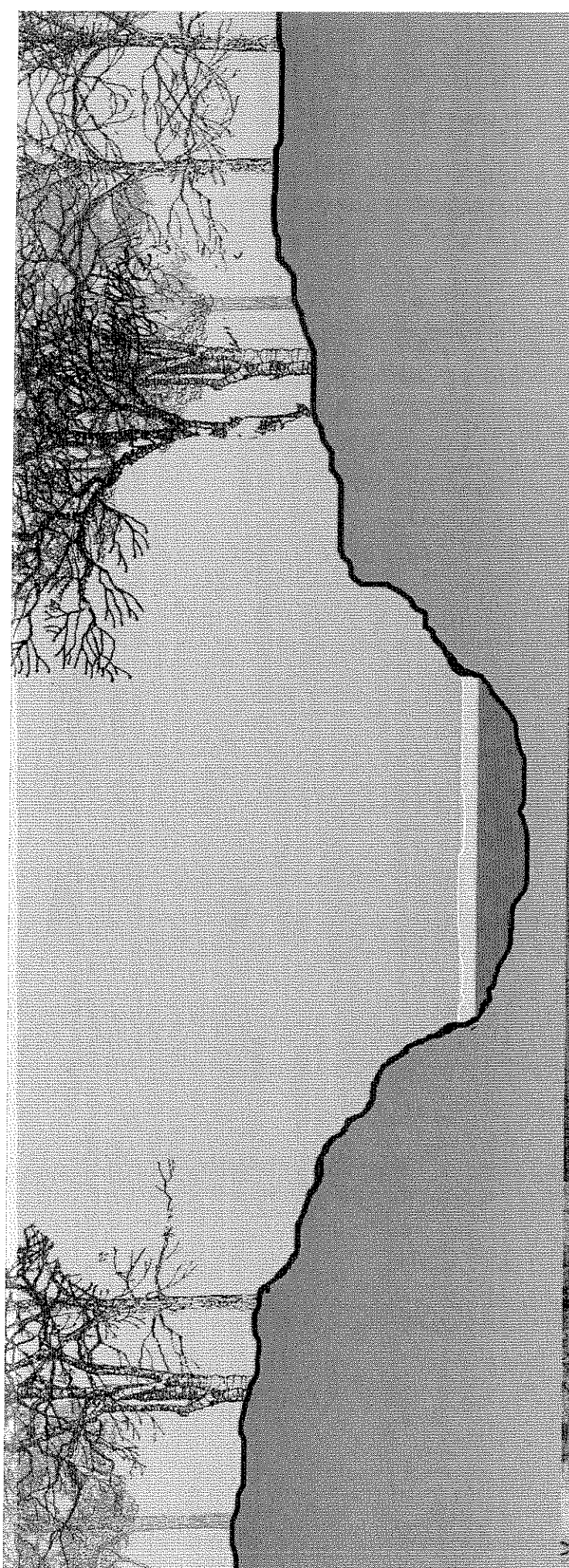
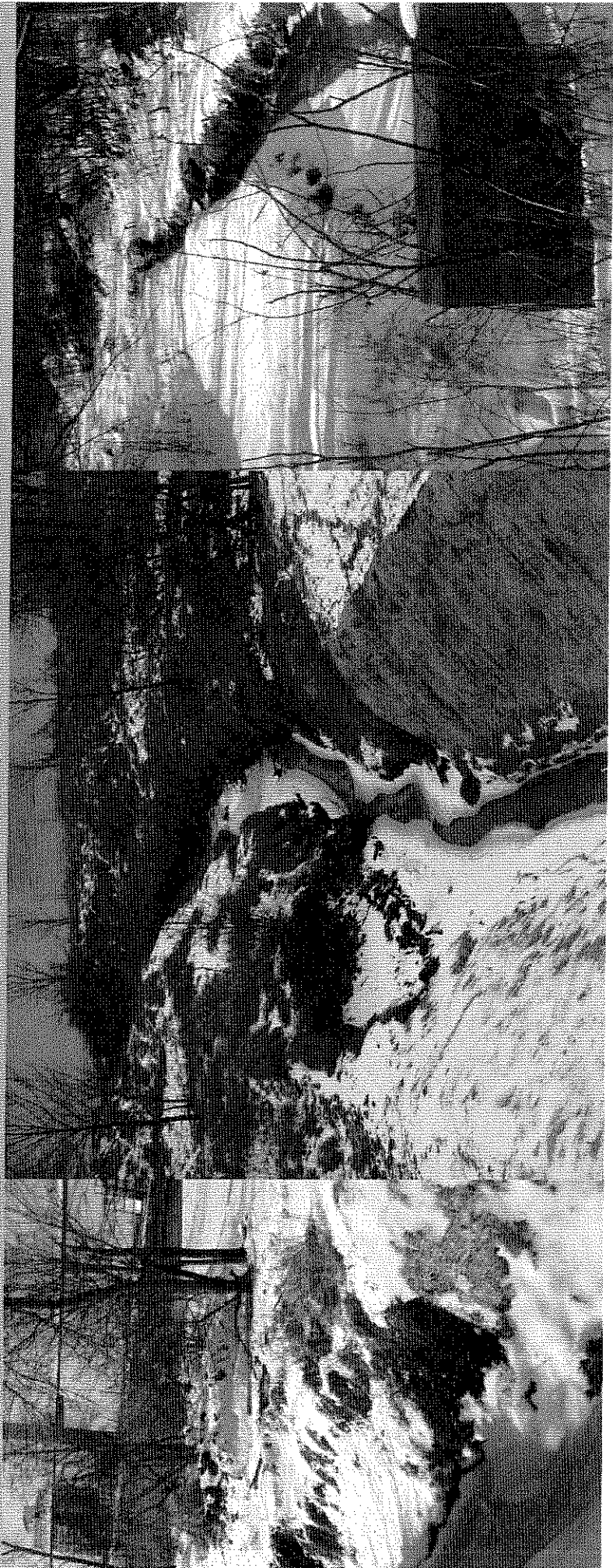
0.60 acres

FLOODPLAIN FOREST / INFORM.

6.77 acres	2
6.54 acres	2
5.78 acres	2
5.08 acres	2
24.17 acres	1,0

	FORM/
2.35 acres	1
2.26 acres	
0.60 acres	
5.21 acres	2



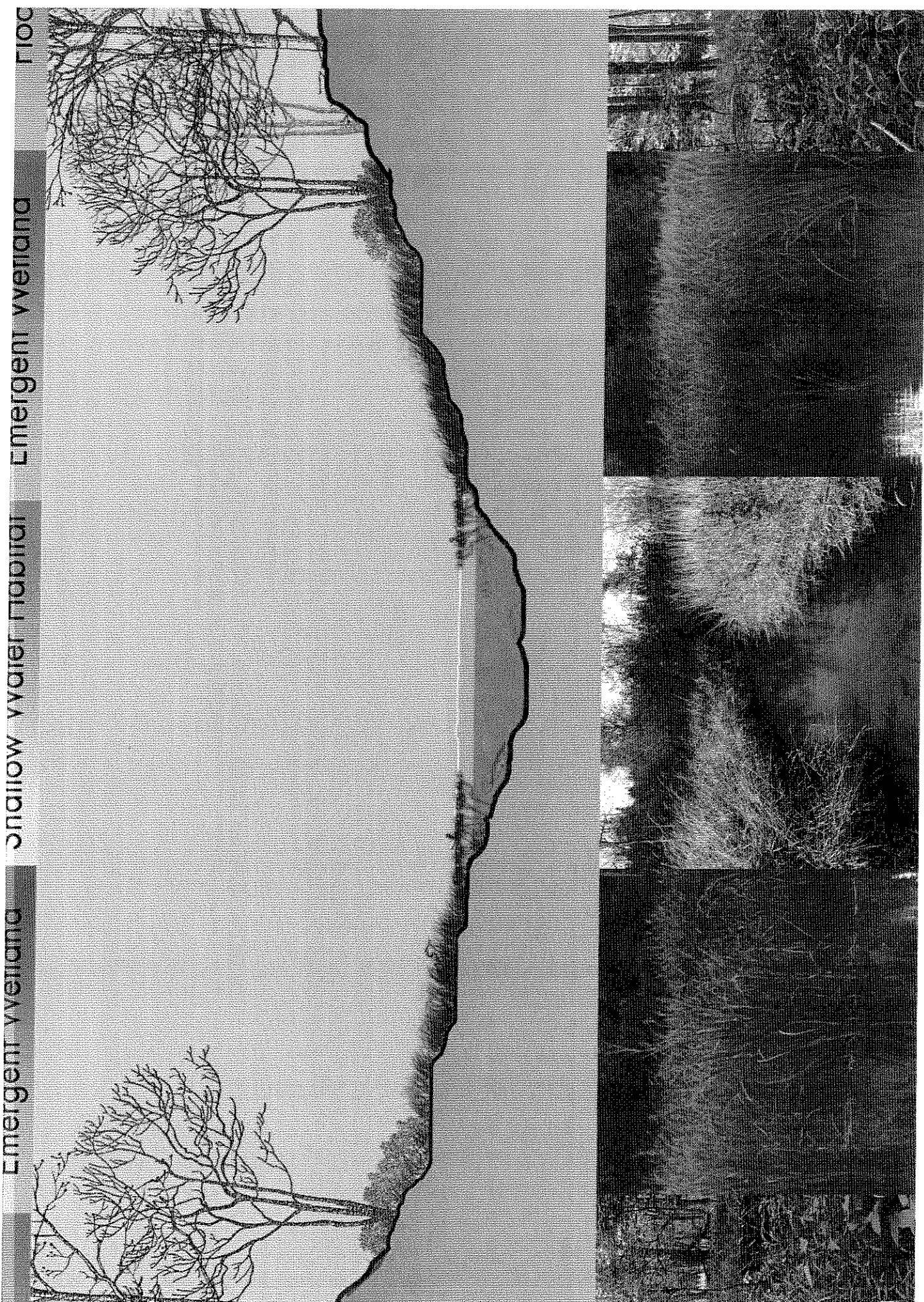


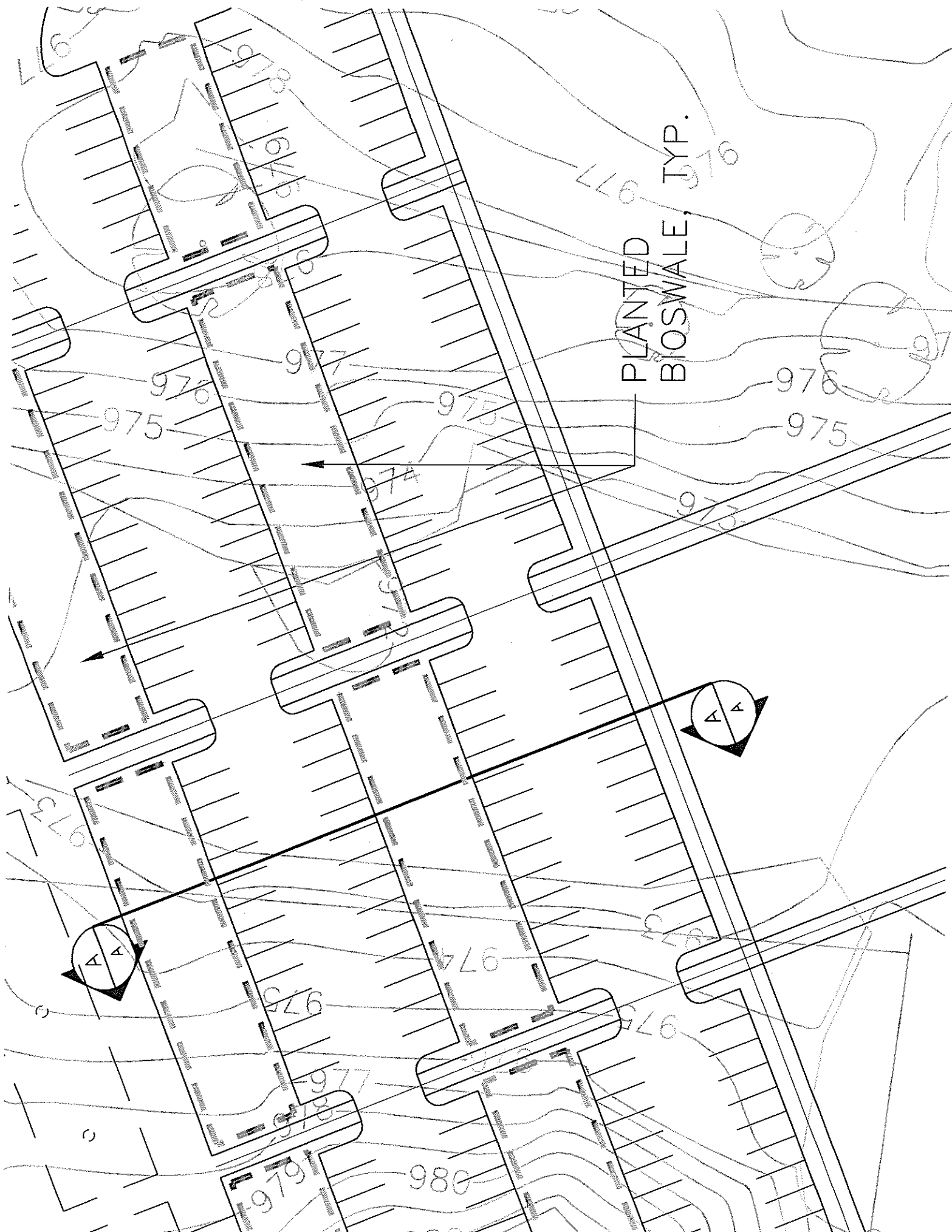
Emergent vegetation

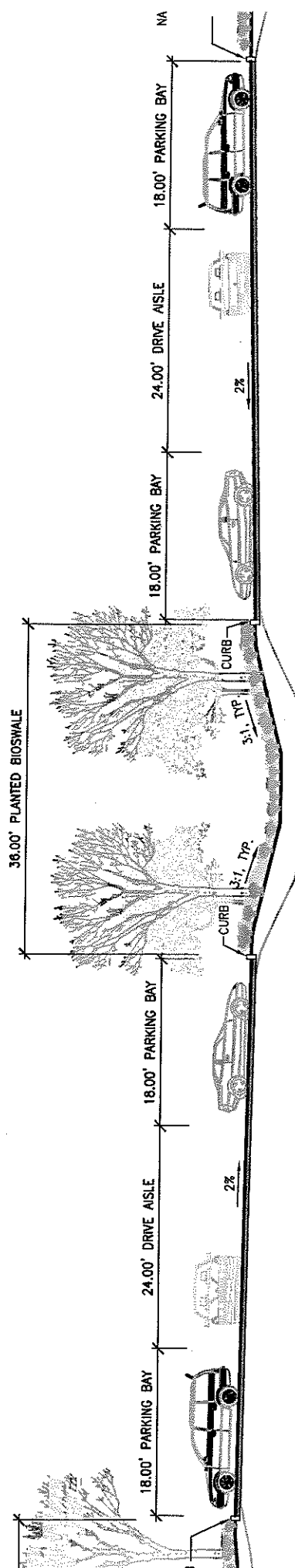
Shallow water plants

Emergent vegetation

Flood







**MANAGEMENT AND TITLE TRANSFER AGREEMENT
COUNCIL BLUFFS RIVERFRONT
POTTAWATTAMIE COUNTY**

This agreement is entered into between the State of Iowa, acting through the Iowa Department of Natural Resources (DNR) and the City of Council Bluffs, Iowa (City) under the authority of Iowa Code section 461A.32 (2009).

The DNR and the City have jointly determined that it is in the public interest to transfer title and the care and maintenance of state-owned real property to the City, herein to be known as the Council Bluffs River's Edge Park more particularly described as:

A parcel of land being a portion of Government Lots 2 and 3, Accretions to said Government Lots 2 and 3 in Section 28, a portion of Government Lots 1 and 2, Accretions to said Government Lots 1 and 2 in Section 33, all in Township 75 North, Range 44 West of the Fifth Principal Meridian, City of Council Bluffs, Pottawattamie County, Iowa, bounded and described as follows:

Commencing at the southwest corner of said Section 28, thence along the west line of said Section 28, North 1 degree 41 minutes 09 seconds East, 355.57 feet to the TRUE POINT OF BEGINNING, said point being on the westerly right-of-way line of the Council Bluffs Missouri River Levee; thence along said westerly right-of-way line of the Council Bluffs Missouri River Levee, the following seven (7) courses:

1. South 14 degrees 18 minutes 36 seconds West, 630.82 feet;
2. South 17 degrees 40 minutes 54 seconds East, 501.84 feet;
3. South 9 degrees 57 minutes 23 seconds West, 78.90 feet;
4. South 20 degrees 21 minutes 16 seconds West, 496.20 feet;
5. South 19 degrees 00 minutes 18 seconds West, 236.47 feet;
6. South 9 degrees 53 minutes 23 seconds East, 296.79 feet;
7. South 21 degrees 34 minutes 27 seconds East, 415.13 feet to a point that is 10 feet normally distant northerly from the northerly edge of Harrah's north parking lot;

thence parallel with said northerly edge of parking, South 64 degrees 44 minutes 41 seconds West, 243.95 feet to a point of the easterly high bank of the Missouri River; thence along said easterly high bank of the Missouri River, the following twenty-three (23) courses:

1. North 30 degrees 44 minutes 30 seconds West, 129.54 feet;
2. North 16 degrees 34 minutes 52 seconds West, 220.22 feet;
3. North 10 degrees 06 minutes 36 seconds East, 76.37 feet;
4. North 9 degrees 47 minutes 46 seconds West, 55.22 feet;
5. North 20 degrees 30 minutes 20 seconds West, 90.48 feet;
6. North 11 degrees 58 minutes 39 seconds West, 78.61 feet;
7. North 19 degrees 57 minutes 16 seconds West, 510.98 feet;
8. North 4 degrees 15 minutes 34 seconds East, 149.85 feet;
9. North 9 degrees 57 minutes 48 seconds West, 363.97 feet;
10. North 7 degrees 01 minute 00 seconds East, 93.06 feet;
11. North 11 degrees 48 minutes 22 seconds West, 525.15 feet;
12. North 0 degrees 18 minutes 07 seconds East, 415.98 feet;
13. North 14 degrees 11 minutes 52 seconds West, 177.86 feet;
14. North 0 degrees 04 minutes 41 seconds West, 218.60 feet;
15. North 2 degrees 39 minutes 59 seconds East, 264.98 feet;
16. North 1 degree 02 minutes 32 seconds West, 266.72 feet;
17. North 10 degrees 45 minutes 42 seconds East, 213.05 feet;
18. North 20 degrees 52 minutes 09 seconds East, 411.38 feet;

19. North 43 degrees 54 minutes 59 seconds East, 178.49 feet;
20. North 7 degrees 47 minutes 47 seconds East, 118.98 feet;
21. North 30 degrees 31 minutes 41 seconds East, 306.87 feet;
22. North 39 degrees 08 minutes 22 seconds East, 184.33 feet;
23. North 54 degrees 51 minutes 28 seconds East, 201 feet, more or less, to a point on the westerly prolongation of the northerly line of Government Lot 2 in said Section 28;

thence easterly along said westerly prolongation and along said northerly line of Government Lot 2, 1,119 feet, more or less, to a point on said westerly right-of-way line of the Council Bluffs Missouri River Levee; thence along said westerly right-of-way line of the Council Bluffs Missouri River Levee, the following four (4) courses:

1. South 39 degrees 33 minutes 38 seconds West, 608.20 feet;
2. South 23 degrees 19 minutes 33 seconds West, 542.51 feet;
3. South 23 degrees 20 minutes 28 seconds West, 865.72 feet;
4. South 14 degrees 18 minutes 36 seconds West, 496.34 feet to the TRUE POINT OF BEGINNING.

Said parcel contains an area of 85 acres, more or less.

A plat of the above-described real property is attached as Exhibit A

I. TERM OF AGREEMENT. This agreement is effective on the date last signed below and shall continue in full force and effect so long as title to the above-described property remains in the City subject to the conditions in this agreement.

II. DNR TRANSFER OF TITLE. Pursuant to Iowa Code section 461A.32, the DNR agrees to transfer title of the above-described real property to the City by patent issued by the State Land Office of the Office of the Secretary of State of the State of Iowa, subject to the conditions contained in Article III.

III. CONDITIONS OF TRANSFER. In consideration of title transfer of the Riverfront to the City, the City agrees to hold the property in trust for the public's use, benefit, and enjoyment as a park, and further agrees as follows:

1. Title to the above-described real property will remain in the City so long as the City holds the property in trust for the public's use, benefit, and enjoyment as a park. In the event the City ceases to use the property as a public park, title to the property reverts to the state of Iowa.
2. Within ninety days of the DNR issuing a patent to the City for the above-described property, the City shall transfer title to a City-owned R-1 zoned lot that adjoins Lake Manawa State Park, described as Lot 81 in Lakewood Villas, a subdivision located in the N $\frac{1}{2}$ of the NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 24, Township 74 North, Range 44 West of the 5th P.M., Pottawattamie County, Iowa.
3. Within ninety days of the DNR issuing a patent to the City for the above-described property and upon request from the DNR, the City shall terminate its management agreement with the DNR, dated November 5, 1987, authorizing City management of the north portion of Lake Manawa State Park, to allow the DNR to relocate the state park campground to the north portion of the park.
4. The City shall utilize dark sky compliant fully shielded fixtures that do not project light above the horizontal plane for all park and pedestrian lighting within the Riverfront, except for specialty lighting necessary for special events and the illumination of art.

5. The City shall minimize the impact of paved road surfaces on the park's existing and proposed natural environment as follows:
 - a. The City shall limit roadway system located in the River's Edge Park to a maximum of 7,500 linear feet of paved surface.
 - b. The City shall limit the width of the park's paved roads in accordance with the road sections detailed in Exhibits 2A, 2B and 2C, and the City further agrees to utilize these road sections as illustrated in Exhibit 2.
6. The City shall minimize the impact of paved parking surfaces on the park's current and future environment as follows:
 - a. Paved parking areas shall be distributed throughout the River's Edge Park as necessary to meet public needs; however, the City shall limit the total number of paved parking stalls to be constructed to a maximum of 800 stalls
 - b. Major paved parking lots shall be limited to three, one being a parking lot to be constructed under the I-480 bridge with a maximum parking capacity of 200 cars, the second being a parking area to be constructed south of the great lawn with a maximum capacity of 180 cars, and the third shall be located to serve the natural environmental studies site with a maximum capacity of 100 stalls.
 - c. The remaining paved parking areas shall be located to serve various shelters, viewing windows, trail heads, observation points, vendor areas, etc.. The number of stalls in these parking areas will be determined based upon the anticipated public demand associated with each facility; however, no one parking area shall contain more than 75 stalls.
7. The City shall utilize construction techniques that mitigate the environmental impact of storm water associated with paved surfaces within the park as follows:
 - a. Roadways through the River's Edge Park shall be constructed with adjoining bioswales, the design and dimensions of which shall be as detailed in Exhibits 2A, 2B and 2C.
 - b. The City further agrees to construct bioswales in the areas identified by Exhibit 2.
 - c. All parking areas in the River's Edge Park shall be constructed with adjoining bioswales. The specific size of the bioswales shall vary depending upon the parking lot size. The design concept of all bioswales shall be as detailed in Exhibits 6A and 6B.
8. The native ground cover existing in the Ecological Zone and the South Transitional Zone shall remain primarily intact and the City shall reseed any areas disturbed within these Zones with an appropriate seed mix as recommended by the City and approved by DNR.
 Additionally, the City and the DNR agree and understand that the public activities associated with the construction of the Great lawn, Amphitheater/River's Edge and the South Viewing Window require a turf mix designed to withstand the anticipated usage, and irrigation will be required to develop and sustain turf within several of these areas. The City agrees, however to limit these turf grass areas and irrigated areas to those areas identified in Exhibit 3. Excepting, however, it is also mutually agreed by the City and the DNR that other small recreational facilities including shelters, picnic areas, trail heads, etc., may require turf grasses for appropriate public use and the City shall be permitted to utilize turf grasses, without irrigation, within those areas.
9. The City shall plant a minimum of 800 trees within the River's Edge Park. A minimum of 700 of these shall be native species. All the herein identified trees shall be replanted within the Reforestation Areas identified by Exhibit 4. All 800 trees shall be a minimum of 1 1/2 inch in diameter.
10. The City shall improve the aesthetic and ecological value of the storm water channel located within River's Edge Park in accordance with Exhibit 5 (3 pages).

IV. SCHEDULE OF CONSTRUCTION. The DNR and City understand and acknowledge that the City shall complete development of the Riverfront subject to available funding.

V. ENFORCEMENT. The DNR shall have the right to prevent and correct violations of the terms of this agreement. If the DNR, upon inspection of the property, finds what appears to be a violation, it may exercise its discretion to seek injunctive relief in a court having jurisdiction. The failure of the DNR to discover a violation or to take immediate action to correct a violation shall not bar it from doing so later.

VI. AMENDMENT. All amendments to this agreement shall be in writing and approved by the Natural Resources Commission and the Council Bluffs City Council.

VII. DEVELOPMENT IN ACCORDANCE WITH THE RIVER'S EDGE PARK MASTER PLAN. The City and DNR mutually agree that the City's development of the River's Edge Park shall be in substantial compliance with the Master Plan (Exhibit 7) and the other attached Exhibits and that any changes to the Master Plan or construction of elements illustrated by the attached Exhibits shall not be contrary to the conditions specified in Article III of this Agreement.

This agreement is entered into under the authority of a resolution adopted at the regular meeting of the Council Bluffs City Council on _____, as shown in the minutes thereof.

CITY OF COUNCIL BLUFFS, IOWA

Thomas Hanafan, Mayor

Marci Worden, City Clerk

STATE OF IOWA, _____ COUNTY:

This instrument was acknowledged before me on _____ by
_____ and _____ as Mayor and City Clerk,
respectively, of the City of _____, Iowa.

NOTARY PUBLIC FOR THE STATE OF IOWA

This agreement is entered into under the authority of a resolution adopted at the regular meeting of the Natural Resource Commission on October 8, 2009, as shown in the minutes thereof.

IOWA DEPARTMENT OF NATURAL RESOURCES

Richard A. Leopold, Director

Date: _____

STATE OF IOWA, _____ COUNTY:

This instrument was acknowledged before me on _____ by
_____ as _____ of the Iowa Department of
Natural Resources.

NOTARY PUBLIC FOR THE STATE OF IOWA

RESOLUTION NO. 10-28

A RESOLUTION OF INTENT TO DISPOSE OF A SMALL PIECE OF CITY PROPERTY LOCATED ON THE NORTH SIDE OF LAKE MANAWA BY TRANSFERING IT TO IOWA DEPARTMENT OF NATURAL RESOURCES (IDNR), AND TO AUTHORIZE THE MAYOR TO SIGN THE ATTACHED MANAGEMENT AND TITLE TRANSFER AGREEMENT WITH THE IDNR.

WHEREAS, the Parks, Recreation and Public Property Department have planned a public park on the banks of the Missouri River and near the foot of the Bob Kerrey Pedestrian Bridge; and

WHEREAS, a deal has been developed by the City and the IDNR which has been detailed in a Management and Title Transfer Agreement which is attached to this resolution as Exhibit A; and

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to sign the Management and Title Transfer Agreement between the City and IDNR; and

BE IT FURTHER RESOLVED

That a public hearing on said disposal of the small Lake Manawa parcel that is described in the Agreement be held on February 8, 2010.

ADOPTED
AND
APPROVED January 25, 2010

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

COUNCIL COMMUNICATION

Department: Public Works

Ordinance No. _____

First Reading January 25, 2010

Case/Project No.: _____

Resolution No. 10-29

Applicant: Greg Reeder, Public Works Director

SUBJECT/TITLE

Consideration of a resolution authorizing the Mayor to execute Addendum #2009-6-185A to agreement 2009-6-185 with Iowa Department of Transportation, the Iowa West Foundation, and the City of Council Bluffs regarding the West Broadway Viaduct Reconstruction.

BACKGROUND/DISCUSSION

- September, 2009, the City, Iowa West Foundation, and Iowa Department of Transportation all executed an agreement for the replacement of the West Broadway Viaduct.
- The IDOT has requested all parties approve an addendum. The addendum requires IWF to provide inspection services for the installation of the sculpture at IWF cost.
- The viaduct reconstruction will start Spring 2010 and be completed by Fall, 2011.

RECOMMENDATION

Approval of this resolution.

STAFF ACTION: N/A

**ADDENDUM TO
AGREEMENT
2009-6-185**

County	<u>Pottawattamie</u>
City	<u>Council Bluffs</u>
	<u>Iowa West Foundation</u>
Project No.	<u>BRF-6-1(113)-38-78</u>
Iowa DOT	
Addendum No.	<u>2009-6-185A</u>

This Addendum, is entered into by and between the Iowa Department of Transportation, (hereinafter "DOT"); the Iowa West Foundation, an Iowa non-profit corporation (hereafter the "FOUNDATION"); and the City of Council Bluffs, Iowa, (hereafter "CITY") in accordance with 761 Iowa Administrative Code Chapter 150 and Iowa Code sections 28E.12 and 306A;

WITNESSETH; that

WHEREAS, the DOT proposes to establish or improve an extension of U.S. Primary Highway No. 6 within Pottawattamie County, Iowa, including construction of a new viaduct (hereinafter the "Viaduct") within the CITY; and

WHEREAS, the DOT, CITY and FOUNDATION are willing to jointly participate in said project, in the manner hereinafter provided; and

WHEREAS, this Addendum reflects the current concept of this project which is subject to modification by the DOT; and

NOW, THEREFORE, IT IS AGREED as follows:

1. The FOUNDATION, CITY and DOT previously entered into Agreement 2009-6-185, which was signed by the FOUNDATION, CITY and DOT on September 4, September 2, and September 11, 2009 respectively, for construction of the following project:

The U.S. 6 Broadway Viaduct will be replaced from 15th Street easterly to near 9th Street. The Viaduct will be 74-feet 2-inches wide and will include a 10-foot sidewalk/trail. The project provides for construction in two stages. The first

phase will shift the eastbound traffic to the westbound lanes while the new eastbound lanes of the Viaduct are being constructed. Phase 2 provides for the eastbound traffic to be returned to the new eastbound lanes while work begins on the new westbound lanes. The westbound traffic will be detoured for the duration of the project.

2. Subsequent to execution of the above referenced Agreement it was identified that inspection of the Sculpture installation was not properly addressed. Therefore, the FOUNDATION will be responsible for the inspection of the Sculpture installation in accordance with the following terms and conditions:
 - A. The FOUNDATION, or its designee, shall inspect the installation of the Sculpture.
 - B. Inspections shall conform to the requirements of the applicable building code adopted by the City of Council Bluffs, Iowa at the time of Sculpture construction and/or erection.
 - C. The FOUNDATION shall be responsible for the cost to inspect the installation of the Sculpture.

Miscellaneous Provisions

5. Previously executed Agreement 2009-6-185, except as modified or extended herein, will remain in full force and effect.
6. It is the intent of all parties that no third party beneficiaries be created by this Agreement.
7. If any section, provision, or part of this Addendum will be found to be invalid or unconstitutional, such judgment will not affect the validity of the Addendum as a whole or any section, provision, or part thereof not found to be invalid or unconstitutional.
8. This Addendum may be executed in three counterparts, each of which so executed will be deemed to be an original.
9. This document, as well as the unaffected provisions of previously executed Agreement 2009-6-185, represents the entire Agreement between the FOUNDATION, CITY and DOT regarding this project. Any subsequent change or

modification to the terms of this Agreement will be in the form of a duly executed amendment to this document.

IN WITNESS WHEREOF, each of the parties hereto has executed Addendum No. 2009-6-185A as of the date shown opposite its signature below.

IOWA WEST FOUNDATION:

By: _____ Date: _____, 20____
 J. Todd Graham
 President and CEO

CITY OF COUNCIL BLUFFS:

By: _____ Date _____, 20____
 Title: Mayor

I, _____, certify that I am the Clerk of the CITY, and that

_____, who signed said Addendum for and on behalf of the CITY

was duly authorized to execute the same on the ____ day of _____, 20____.

Signed: _____
 City Clerk of Council Bluffs, Iowa.

IOWA DEPARTMENT OF TRANSPORTATION:

By: _____ Date _____, 20____
 John Selmer
 District Engineer
 District 4

RESOLUTION
NO 10-29

**RESOLUTION AUTHORIZING THE MAYOR TO
EXECUTE ADDENDUM #2009-6-185A TO AGREEMENT #2009-6-185
WITH THE
IOWA DEPARTMENT OF TRANSPORTATION AND
THE IOWA WEST FOUNDATION
REGARDING THE
WEST BROADWAY VIADUCT RECONSTRUCTION**

- WHEREAS, the city wishes to make improvements known as the West Broadway Viaduct Construction, within the city, as therein described; and
- WHEREAS, IDOT. has submitted an addendum agreement to provide the work necessary for said improvements; and
- WHEREAS, the city council deems approval of said agreement to be in the best interest of the City of Council Bluffs.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized and directed to execute an addendum agreement with IDOT and IWF associated with the West Broadway Viaduct Reconstruction.

ADOPTED
AND
APPROVED

January 25, 2010

Thomas P. Hanafan,

Mayor

ATTEST:

Marcia L. Worden,

City Clerk

COUNCIL COMMUNICATION

Department: Public Works

Ordinance No. _____

First Reading January 25, 2010

Case/Project No.: FY09-10A

Resolution No. 10-30

Applicant: Matthew Cox, City Engineer

SUBJECT/TITLE

Council consideration of a resolution accepting the bid of Charles Vrana & Sons Construction Co. in the amount of \$1,519,901.68 for the Fire Station Bridge Crossing Indian Creek. Project #FY09-10A.

BACKGROUND/DISCUSSION

- On January 20, 2010, bids were received at the offices of Iowa Department of Transportation as followed:

Charles Vrana & Sons Construction Co.	\$1,519,901.68
Anderson Excavating Co.	\$1,667,930.30
Iowa Bridge & Culvert, L.C.	\$1,674,931.00
Hawkins Construction Co.	\$1,694,169.01
Godbersen-Smith Construction Co.	\$2,048,908.55
Engineer's Estimate	\$1,542,000.00

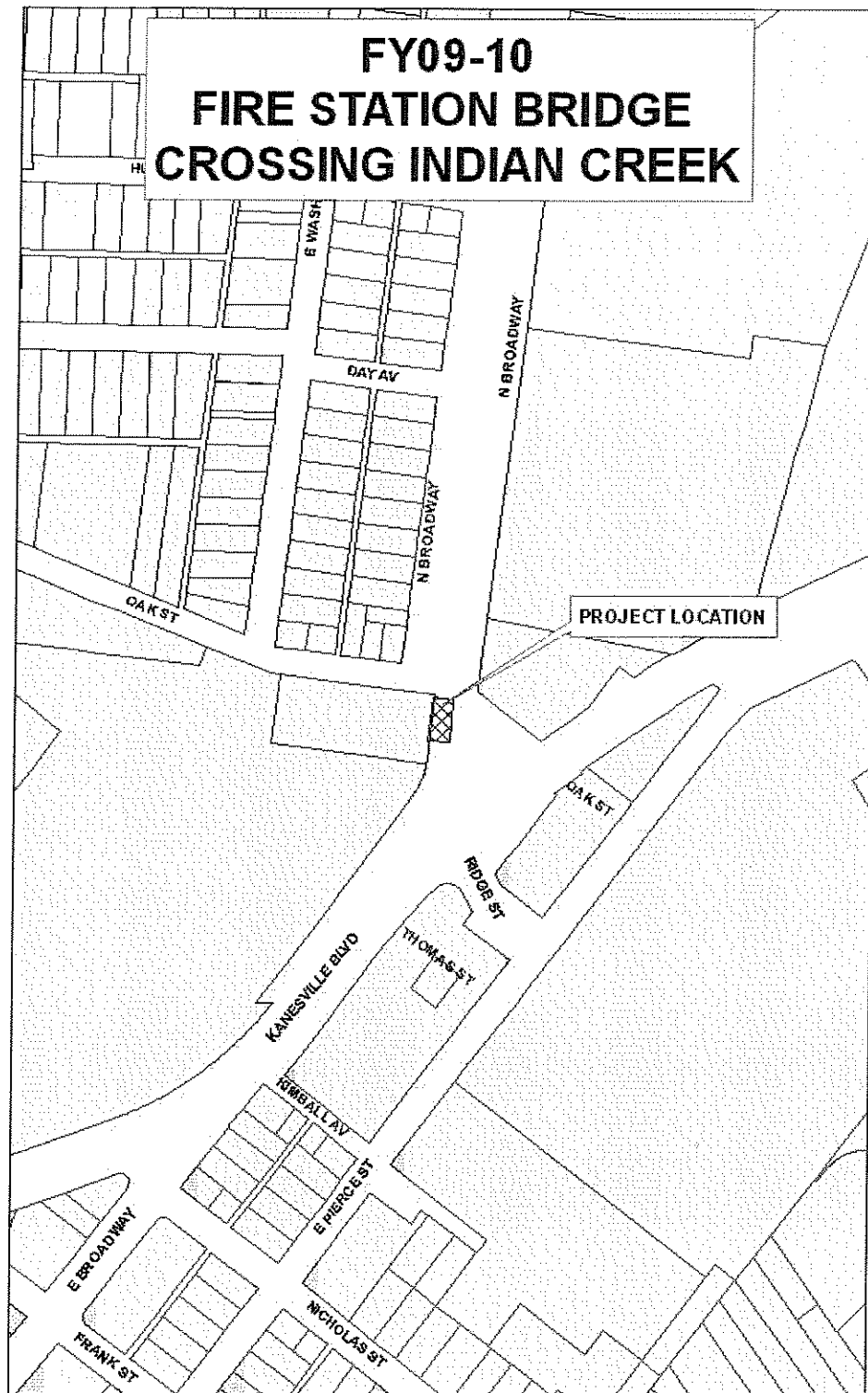
- This bridge was originally built in 1956 and it is in poor condition. Total replacement of the bridge is required.
- The Oak Street Fire Station Bridge over Indian Creek was the City's worst rated bridge. It ranked fourth in the state for bridges participating in the program.
- IDOT has offered the city 80% funding for construction replacement of the Oak Street Fire Station Bridge.
- The bridge will be replaced by a box culvert structure similar to the Parkwood Circle structure constructed in 2008-2009. As part of this project the Oak Street Bridge will be replaced by the culvert as well.
- The bridge replacement is eligible for HBRR federal aid. This funding is available on a statewide competitive basis. This structure became eligible for replacement in 2005. The City programmed and accepted Federal funding in February 2008 in Agreement No. 408-HBRRU-008.
- The project is programmed in the CIP for FY09 with construction to begin in late 2009. The project is funded \$1,000,000 HBRR and the balance in G.O. Bonds.
- Project schedule is:

Set Public Hearing	November 23, 2009
Hold Public Hearing	December 14, 2009
IDOT Bid Letting	January 20, 2010
Award	January 25, 2009
Construction in	2010

RECOMMENDATION

Approval of this resolution.

**FY09-10
FIRE STATION BRIDGE
CROSSING INDIAN CREEK**



RESOLUTION
NO 10-30

**RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK
TO EXECUTE AN AGREEMENT WITH
CHARLES VRANA & SONS CONSTRUCTION CO. FOR THE
FIRE STATION BRIDGE CROSSING INDIAN CREEK
FY09-10A**

- WHEREAS, the plans, specifications, and form of contract for the Fire Station Bridge Crossing Indian Creek are on file in the office of the Iowa Department of Transportation; and
- WHEREAS, a Notice of Public Hearing was published, as required by law, and a public hearing was held on December 14, 2009, and the plans, specifications and form of contract were approved; and
- WHEREAS, Charles Vrana & Sons Construction Co. has submitted a low bid in the amount of \$1,519,901.68 for this contract.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the bid of Charles Vrana & Sons Construction Co. in the amount of \$1,519,901.68 is hereby accepted as the lowest and best bid received for said work; and

BE IT FURTHER RESOLVED

That the City Council does hereby award the contract in connection with the Fire Station Bridge Crossing Indian Creek; and

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized, empowered, and directed to execute an agreement with Charles Vrana & Sons Construction Co. for and on behalf of the City of Council Bluffs, upon approval by the City Attorney of the certificate of insurance and payment and performance bonds as required by the contract specifications.

ADOPTED
AND
APPROVED

January 25, 2010

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

Council Communication

Department: Parks, Recreation and Public Property	Ordinance No. _____ Resolution No. <u>10-31</u>	Date: <u>1-25-10</u>
Case/Project No.		
Applicant: Larry N. Foster		
Subject/Title		
Council consideration of a resolution accepting the bid of Proto Productions in the amount of \$343,000 for the America Travels by Rail Project.		
Background/Discussion		
<p>The UP Museum identified four potential vendors for this project and each were sent a bid package. Three vendors were very interested and attended the pre-bid meeting in early January. At the last minute, due to the bond requirements, one vendor pulled out.</p> <p>Bids were opened Friday, January 15, 2010. Two bids were received. Proto Productions has the lowest bid and we feel comfortable with their ability to complete the project.</p> <p>The Iowa DOT still needs to approve the bid acceptance also. No contract will be awarded until final approval by the DOT. We are requesting approval by the City so that we can move quickly on starting the project once the DOT approves.</p>		
Recommendation		
Recommend resolution accepting the low bid from Proto Productions for the America Travels by Rail Project.		

Larry N. Foster

Thomas P. Hanafan

RESOLUTION NO. 10-31

RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE
AN AGREEMENT WITH PROTO PRODUCTIONS FOR THE AMERICA TRAVELS BY
RAIL PROJECT.

WHEREAS, the plans, specifications, and form of contract for the America Travels by Rail project
are on file in the office of the City Clerk; and

WHEREAS, a Notice of Public Hearing was published, as required by law, and a public hearing
was held on December 14, 2009, and the plans, specifications and form of contract
were approved; and

WHEREAS, Proto Productions has submitted a low bid in the amount of \$343,000 for this contract;
and

NOW, THEREFORE BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the bid of Proto Productions in the amount of \$343,000 is hereby accepted as the lowest and
best bid received for said work; and

BE IT FURTHER RESOLVED

That the City Council does hereby award the contract in connection with the America Travels by
Rail Project; and

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized, empowered, and directed to execute a contract
with Proto Productions for and on behalf of the City of Council Bluffs, upon approval by the City
Attorney of the certificate of insurance and payment and performance bonds as required by the
contract specifications.

ADOPTED
AND
APPROVED January 25, 2010

Thomas P. Hanafan Mayor

Attest: _____
Marcia Worden City Clerk

Council Communication

Department: Legal	Resolution No. <u>10-32</u>	First Reading Second Reading Third Reading _____
Subject/Title		
<p>Resolution authorizing the Mayor to execute the Order Accepting the Acknowledgement/Settlement Agreement from Kwik Shop #532, 1602 Avenue G, Council Bluffs, Iowa, for a violation of the State's tobacco laws.</p>		

Background/Discussion
<p>On or about September 24, 2009, compliance checks by the Council Bluffs Police Department resulted in a citation being issued to an employee of Kwik Shop #532 for providing tobacco to a minor. We are pursuing civil penalties against the permit holder. The civil penalty for a first violation is \$300. Kwik Shop #532 has made payment of the \$300 penalty and has submitted their Acknowledgement/Settlement Agreement. A resolution has been prepared authorizing the Mayor to execute the Order to Accept the Acknowledgement/Settlement Agreement from Kwik Shop #532.</p>
Recommendation
<p>Authorize the Mayor to execute the Order Accepting the Acknowledgement/Settlement Agreement from Kwik Shop #532 for a first violation of the State's tobacco laws.</p>

Don Bauermeister, Asst. City Attorney

Department Head Signature

Mayor Signature

RESOLUTION NO. 10-32

A RESOLUTION authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from Kwik Shop #532, 1602 Avenue G, for a violation of Iowa Code Section 453A.2(1).

WHEREAS, the State of Iowa has enacted a comprehensive program aimed at reducing underage tobacco use; and

WHEREAS, compliance checks in Council Bluffs resulted in a citation being issued to an employee of Kwik Shop #532, 1602 Avenue G, on or about September 24, 2009; and

WHEREAS, the mandatory civil penalty has been paid, and it is in the best interest of the City to execute an Order Accepting the Acknowledgement/Settlement Agreement from the above business for this violation.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to execute the Order Accepting the Acknowledgement/Settlement Agreement from Kwik Shop #532 for a violation of Iowa Code Section 453A.2.

ADOPTED
AND
APPROVED

January 25, 2010

THOMAS P. HANAFAN Mayor

Attest:

MARCIA L. WORDEN City Clerk

BEFORE THE CITY COUNCIL
FOR THE CITY OF COUNCIL BLUFFS, IOWA

IN RE:

Kwik Shop #532
1602 Avenue G
Council Bluffs, IA 51501

**ORDER ACCEPTING
ACKNOWLEDGEMENT/SETTLEMENT
AGREEMENT**

On this 25th day of January, 2010, in lieu of a public hearing on the matter, the City Council approves the attached Acknowledgement/Settlement Agreement between the above-captioned permittee and the City of Council Bluffs, Iowa.

THEREFORE, the City Council for the City of Council Bluffs, Iowa, FINDS that the above-captioned permittee has remitted to the City of Council Bluffs, Iowa, a civil penalty in the amount of three hundred dollars (\$300.00). Be advised that this sanction will count as a first violation of Iowa Code Section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(a).

IT IS THEREFORE ORDERED that the judgment in this matter is hereby satisfied.

THOMAS P. HANAFAN Mayor

Attest:

MARCIA L. WORDEN City Clerk

Council Communication

Department: Legal	Resolution No. <u>10-33</u>	Council Action: <u>1/25/2010</u>
Case/Project No.		
Subject/Title		
Resolution authorizing the Mayor to execute the Order Accepting the Acknowledgement/Settlement Agreement from Haro, Inc., d/b/a Mexico Lindo, 2200 W. Broadway, Council Bluffs, Iowa, for a violation of the State's tobacco laws.		

Background/Discussion
On or about December 3, 2009, compliance checks by the Council Bluffs Police Department resulted in a citation being issued to an employee of Mexico Lindo for providing tobacco to a minor. We are pursuing civil penalties against the permit holder. The civil penalty for a first violation is \$300. Mexico Lindo has made payment of the \$300 penalty and has submitted their Acknowledgement/Settlement Agreement. A resolution has been prepared authorizing the Mayor to execute the Order to Accept the Acknowledgement/Settlement Agreement from Mexico Lindo.
Recommendation
Authorize the Mayor to execute the Order Accepting the Acknowledgement/Settlement Agreement from Mexico Lindo for a first violation of the State's tobacco laws.

Don Bauermeister, Asst. City Attorney

Department Head Signature

Mayor Signature

RESOLUTION NO. 10-33

A RESOLUTION authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from Haro, Inc., d/b/a Mexico Lindo, 2200 West Broadway, for a violation of Iowa Code Section 453A.2(1).

WHEREAS, the State of Iowa has enacted a comprehensive program aimed at reducing underage tobacco use; and

WHEREAS, compliance checks in Council Bluffs resulted in a citation being issued to an employee of Mexico Lindo, 2200 West Broadway, on or about December 3, 2009; and

WHEREAS, the mandatory civil penalty has been paid, and it is in the best interest of the City to execute an Order Accepting the Acknowledgement/Settlement Agreement from the above business for this violation.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to execute the Order Accepting the Acknowledgement/Settlement Agreement from Mexico Lindo for a violation of Iowa Code Section 453A.2.

ADOPTED
AND
APPROVED

January 25, 2010

THOMAS P. HANAFAN

Mayor

Attest:

MARCIA L. WORDEN

City Clerk

BEFORE THE CITY COUNCIL
FOR THE CITY OF COUNCIL BLUFFS, IOWA

IN RE:

Haro, Inc.
d/b/a Mexico Lindo
2200 W. Broadway
Council Bluffs, IA 51501

**ORDER ACCEPTING
ACKNOWLEDGEMENT/SETTLEMENT
AGREEMENT**

ON this ____ day of _____, 2010, in lieu of a public hearing on the matter, the City Council approves the attached Acknowledgement/Settlement Agreement between the above-captioned permittee and the City of Council Bluffs, Iowa.

THEREFORE, the City Council for the City of Council Bluffs, Iowa, FINDS that the above-captioned permittee has remitted to the City of Council Bluffs, Iowa, a civil penalty in the amount of three hundred dollars (\$300.00). Be advised that this sanction will count as a first violation of Iowa Code Section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(a).

IT IS THEREFORE ORDERED that the judgment in this matter is hereby satisfied.

THOMAS P. HANAFAN Mayor

Attest:

MARCIA L. WORDEN City Clerk

Council Communication

Department: Legal	Resolution No. <u>10-34</u>	Council Action: <u>1/25/2010</u>
Case/Project No.		
Subject/Title		
Resolution authorizing the Mayor to execute the Order Accepting the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel, One Harrah's Blvd., for a second violation of the State's tobacco laws.		

Background/Discussion
On November 12, 2009, compliance checks by the Council Bluffs Police Department resulted in a citation being issued to an employee of Harrah's Casino and Hotel, One Harrah's Blvd., for providing tobacco to a minor. On or about May 26, 2009, this permittee was issued a sanction for a first violation of Iowa Code Section 453A.2. We are pursuing civil penalties against the permit holder. The civil penalty for a second violation within two years is either a \$1,500 fine or a 30-day suspension of the cigarette permit. Harrah's Casino and Hotel has made payment of the \$1,500 penalty and has submitted the Acknowledgement/Settlement Agreement. A resolution has been prepared authorizing the Mayor to execute the Order to Accept the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel.
Recommendation
Authorize the Mayor to execute Order Accepting the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel, One Harrah's Blvd., for a second violation of the State's tobacco laws.

Don Bauermeister, Asst. City Attorney

Department Head Signature

Mayor Signature

RESOLUTION NO. 10-34

A RESOLUTION authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel, One Harrah's Blvd., Council Bluffs, Iowa, for a second violation of Iowa Code Section 453A.2(1).

WHEREAS, the State of Iowa has enacted a comprehensive program aimed at reducing underage tobacco use; and

WHEREAS, compliance checks in Council Bluffs resulted in a citation being issued to an employee of Harrah's Casino and Hotel, One Harrah's Blvd., on or about November 12, 2009. On or about May 26, 2009, the permittee was issued a sanction for a first violation of Iowa Code Section 453A.2; and

WHEREAS, the permittee has elected to pay the \$1,500 fine, and it is in the best interest of the City to execute an Order Accepting the Acknowledgement/Settlement Agreement from the above business for this violation.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to execute the Order Accepting the Acknowledgement/Settlement Agreement from Harrah's Casino and Hotel for a second violation of Iowa Code Section 453A.2.

ADOPTED
AND
APPROVED

January 25, 2010

THOMAS P. HANAFAN

Mayor

Attest:

MARCIA L. WORDEN

City Clerk

BEFORE THE CITY COUNCIL
FOR THE CITY OF COUNCIL BLUFFS, IOWA

HARRAH'S CASINO AND HOTEL
ONE HARRAH'S BLVD.
COUNCIL BLUFFS, IA 51501

ORDER ACCEPTING
ACKNOWLEDGEMENT/SETTLEMENT
AGREEMENT - 2ND VIOLATION

ON this ____ day of _____, 2010, in lieu of a public hearing on the matter, the City Council approves the attached Acknowledgement/Settlement Agreement between the above-captioned permittee and the City of Council Bluffs, Iowa.

Pursuant to the Agreement, IT IS THEREFORE ORDERED that a civil penalty of a one thousand five hundred dollar (\$1,500.00) fine be accepted. This sanction will count as a **second** violation of Iowa Code Section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(b).

THOMAS P. HANAFAN

Mayor

Attest:

MARCIA L. WORDEN

City Clerk